

EXHIBIT 64

(with redactions)

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
WESTERN DISTRICT

Civil No. 1:19-cv-00150-DMT-ARS

VIDEOTAPE DEPOSITION OF: DARREN CRUZAN
August 23, 2022
(Via RemoteDepo)

STATE OF NORTH DAKOTA,

Plaintiff,

v.

THE UNITED STATES OF AMERICA,

Defendant.

PURSUANT TO NOTICE, the videotape deposition of DARREN CRUZAN was taken on behalf of the Plaintiff in Huddleston, Virginia, via remote means, on August 23, 2022, at 8:31 a.m., Mountain Time, before Tiffany D. Goulding, Registered Professional Reporter and Notary Public within Colorado, appearing remotely from Arapahoe County, Colorado.

Darren Cruzan
August 23, 2022

		Page 2			Page 4
1	REMOTE APPEARANCES		1	Exhibit 747	E-mail to Long, et al. from Cruzan, 8/17/16, Subject: Re: SRST updates 96
2	For the Plaintiff:		2		
3	PAUL M. SEBY, ESQ.			Exhibit 748	E-mail to Cruzan from Roberts, 8/18/16, Subject: Re: SRST updates 103
	PAUL KERLIN, ESQ.		3		
4	Greenberg Traurig, LLP		4	Exhibit 749	E-mail to Lakota, et al. from LaPointe, 8/18/16, Subject: FWD: Camp Sites in Cannonball Area 108
	1144 15th Street, Suite 3300				
5	Denver, Colorado 80202		5	Exhibit 750	E-mail to Black, et al. from Cruzan, 8/18/16, Subject: Evening Update 122
	seby@gtlaw.com		6		
6			7		
7	For the Defendant:		8	Exhibit 751	E-mail to Gallagher from Cruzan, 8/22/16 127
8			9		
	V. WILLIAM SCARPATO III, ESQ.			Exhibit 752	E-mail to Black, et al. from Cruzan, 8/22/16, Subject: Evening Update 132
9	Special Attorney to the United States Attorney General		10		
	United States Attorney's Office		11	Exhibit 755	E-mail to Cruzan, et al. from Gallagher, 9/1/16, Subject: DAPL Briefing 133
10	District of Colorado		12		
	1801 California Street, Suite 1600		13	Exhibit 756	E-mail to Cruzan from Doering, 9/3/16, Subject: DAPL EOC Activation 139
11	Denver, Colorado 80202		14		
	victor.scarpato@usdoj.gov		15	Exhibit 757	E-mail to Roberts, et al. from Cruzan, 9/4/16, Subject: Re: North Dakota Protest 142
12			16		
13	Also Present:		17	Exhibit 758	E-mail to Cruzan, et al. from Roberts, 9/4/16, Subject: Re: North Dakota Protest 148
14	Gabe Seymore, Videographer		18		
15	Rachel Hymel		19	Exhibit 759	E-mail to Bernstein and Darren from Cruzan, 9/4/16, Subject: Re: North Dakota Protest 149
16	Adrienne DiCerberio		20		
	Tony Irish		21	Exhibit 760	E-mail to Black, et al. from Cruzan, 9/4/16, Subject: FWD: Sunday Evening Report 150
17			22		
18			23		
19			24		
20			25		
21					
22					
23					
24					
25					

		Page 3			Page 5
1	I N D E X		1	Exhibit 761	E-mail to Toulou and Cruzan from Delorme, 9/7/16, Subject: FWD: Letter to you from Congressman Cramer regarding the Dakota Access Pipeline 155
2	EXAMINATION OF DARREN CRUZAN: August 23, 2022	PAGE	2		
3	By Mr. Seby	9	3	Exhibit 762	E-mail to Salamanca, et al. from Baker, 9/9/16, Subject: Update from Tribe 161
4			4		
5			5	Exhibit 763	E-mail to Toulou, et al. from Cruzan, 9/11/16, Subject: Sunday 9/11/16 Update 165
6	DEPOSITION EXHIBITS:	INITIAL REFERENCE	6		
7	(Exhibits provided electronically to the reporter.)		7	Exhibit 765	E-mail to Hirsch, et al. from Hackworth, 9/14/16, Subject: Standing Rock: DOJ, Interior, and Army Corps Call regarding Special Use Permit 172
8	Exhibit 722 Telephone Conference Invite, 9/1/16	136	8		
9	Exhibit 739 E-mail to O'Neal, et al. from Cruzan, 8/14/16, Subject: Re: Standing Rock Sioux Tribe REF: DAPL Protest - Council arrests by Morton County Sheriff's Department	55	9	Exhibit 767	E-mail to Humbert from Benavidez, 9/15/16, Subject: Response 178
10			10		
11	Exhibit 740 E-mail to Cruzan, et al. from O'Neal, 8/14/16, Subject: Re: Standing Rock Sioux Tribe REF: DAPL Protest - Council arrests by Morton County Sheriff's Department	64	11	Exhibit 768	E-mail to Harman from Cruzan, 9/15/16, Subject: Re: Questions about DAPL protests 181
12			12		
13	Exhibit 741 E-mail to O'Neal, et al. from Cruzan, 8/14/16, Subject: Re: Standing Rock Sioux Tribe REF: DAPL Protest - Council arrests by Morton County Sheriff's Department	69	13	Exhibit 770	E-mail to Cruzan, et al. from Beaudreau, 9/15/16, Subject: Re: BIA OJS concerns 188
14			14		
15	Exhibit 742 E-mail to Cruzan, et al. from Lonewolf, 8/15/16, Subject: Re: SRST updates	73	15	Exhibit 772	E-mail to Cruzan from Toulou, 9/16/16, Subject: FW: Update 202
16			16	Exhibit 774	E-mail to Jackson, et al. from Cruzan, 9/18/16, Subject: Re: Permit Question 204
17	Exhibit 743 E-mail to Cruzan, et al. from Lonewolf, 8/15/16, Subject: Re: SRST updates	84	17		
18			18	Exhibit 776	E-mail to Dohrmann, et al. from Cruzan, 9/18/16, Subject: Re: Meeting Today? 211
19	Exhibit 745 E-mail to Roberts from Cruzan, 8/15/16, Subject: FWD: SRST updates	90	19		
20			20	Exhibit 777	E-mail to Gerhart, et al. from Salamanca, 9/20/16, Subject: Re: Update to Volunteer Self Marshals needs and concerns 217
21	Exhibit 746 E-mail to Cruzan, et al. from Lynn, 8/15/16, Subject: Re: SRST updates	93	21		
22			22		
23			23		
24			24		
25			25		

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 6</p> <p>1 Exhibit 778 E-mail to Salamanca, et al. from 223</p> <p>2 Cruzan, 9/20/16, Subject: Re:</p> <p>3 Update to Volunteer Self Marshals</p> <p>4 needs and concerns</p> <p>5</p> <p>6 Exhibit 790 E-mail to Cruzan, et al. from 226</p> <p>7 Beaudreau, 10/15/16, Subject: Re:</p> <p>8 Quick Question</p> <p>9</p> <p>10 Exhibit 791 E-mail to Black, et al. from 236</p> <p>11 Cruzan, 10/15/16, Subject: FWD:</p> <p>12 Saturday Update</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 8</p> <p>1 Scarpato from the United States Attorney's Office for</p> <p>2 the District of Colorado on behalf of the defendant,</p> <p>3 United States of America. Also present at the</p> <p>4 deposition today are Adrienne DiCerbo and Tony Irish</p> <p>5 from the Department of Interior.</p> <p>6 THE REPORTER: The attorneys</p> <p>7 participating in this deposition acknowledge that I am</p> <p>8 not physically present in the deposition room and that</p> <p>9 I will be reporting this deposition remotely. They</p> <p>10 further acknowledge that, in lieu of an oath</p> <p>11 administered in person, the witness will verbally</p> <p>12 declare his testimony in this matter is under penalty</p> <p>13 of perjury. The parties and their counsel consent to</p> <p>14 this arrangement and waive any objections to this</p> <p>15 manner of reporting.</p> <p>16 Please indicate your agreement by stating</p> <p>17 your name and your agreement on the record. Mr. Seby</p> <p>18 first.</p> <p>19 MR. SEBY: Sure. This is Paul Seby,</p> <p>20 counsel for the plaintiff, and I understand and</p> <p>21 concur.</p> <p>22 MR. SCARPATO: Bill Scarpato for</p> <p>23 defendant. We agree.</p> <p>24 THE REPORTER: Mr. Cruzan, I will also</p> <p>25 ask you to agree and declare that the testimony you</p>
<p style="text-align: right;">Page 7</p> <p>1 WHEREUPON, the following proceedings</p> <p>2 were taken pursuant to the Federal Rules of Civil</p> <p>3 Procedure.</p> <p>4 * * * * *</p> <p>5 THE VIDEOGRAPHER: We are now on the</p> <p>6 record at 8:31 a.m. on August 23, 2022. This is the</p> <p>7 video-recorded proceeding of Darren Cruzan taken by</p> <p>8 counsel for the plaintiff in the matter of State of</p> <p>9 North Dakota versus the United States of America filed</p> <p>10 in the United States District Court for the District</p> <p>11 of North Dakota, Western Division.</p> <p>12 This proceeding is being held by remote</p> <p>13 video conference. My name is Gabe Seymore and I'm the</p> <p>14 videographer on behalf of U.S. Legal Support, located</p> <p>15 at 16825 North Chase Drive, Suite 900, Houston, Texas</p> <p>16 77060. I am not related to any party in this action,</p> <p>17 nor am I financially interested in the outcome. The</p> <p>18 court reporter is Tiffany Goulding on behalf of U.S.</p> <p>19 Legal Support.</p> <p>20 And, Counsel, will you please state your</p> <p>21 appearances for the record.</p> <p>22 MR. SEBY: Good morning. This is Paul</p> <p>23 Seby, counsel for the plaintiff, State of North</p> <p>24 Dakota, along with my cocounsel, Paul Kerlin.</p> <p>25 MR. SCARPATO: Good morning. Bill</p>	<p style="text-align: right;">Page 9</p> <p>1 are about to give will be under the penalty of</p> <p>2 perjury.</p> <p>3 THE DEPONENT: My name is Darren Cruzan.</p> <p>4 I understand and I agree.</p> <p>5 DARREN CRUZAN,</p> <p>6 having verbally declared that his testimony in this</p> <p>7 matter is under penalty of perjury, testified as</p> <p>8 follows:</p> <p>9 EXAMINATION</p> <p>10 BY MR. SEBY:</p> <p>11 Q. All right. Good morning, Mr. Cruzan.</p> <p>12 A. Good morning.</p> <p>13 Q. This will be a deposition of your</p> <p>14 proceeding and taken pursuant to prior notice and</p> <p>15 agreement of counsel. My name is Paul Seby. I'm both</p> <p>16 an attorney with the law firm of Greenberg Traurig and</p> <p>17 a special assistant attorney general for the State of</p> <p>18 North Dakota. And along with Paul Kerlin, we</p> <p>19 represent the State of North Dakota, who I'll refer to</p> <p>20 today as "the state" or "North Dakota."</p> <p>21 Do you understand, sir, that you've just</p> <p>22 been sworn in this morning?</p> <p>23 A. I do understand that, yes.</p> <p>24 Q. Would you please state your full name for</p> <p>25 the record.</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 10</p> <p>1 A. Sure. My name is Darren Andrew Cruzan.</p> <p>2 Q. And before we begin, I just want to go</p> <p>3 over a few ground rules for the deposition, most of</p> <p>4 which are just intended to help the court reporter</p> <p>5 take down everything we say properly.</p> <p>6 Everything we say today is being written</p> <p>7 down and videotaped, and because of that I'd ask you</p> <p>8 to please verbalize responses with a yes or no or</p> <p>9 other answer as opposed to nodding your head yes or</p> <p>10 no. Also, please no shorthand "uh-huh" or "huh-uh,"</p> <p>11 if that's acceptable.</p> <p>12 A. Okay. Understood.</p> <p>13 Q. Thank you. Likewise, it's difficult for</p> <p>14 the court reporter to take down what we're saying if</p> <p>15 we inadvertently talk over each other. So I will do</p> <p>16 my best not to interrupt you; and if you would do the</p> <p>17 same, not to interrupt me, let me finish my questions,</p> <p>18 that would be great. Does that work?</p> <p>19 A. Yes, sir. Yes.</p> <p>20 Q. Okay. If you need a break during the</p> <p>21 deposition, just please let me know. However, if</p> <p>22 there's a question pending, I think we'd ask you to</p> <p>23 please first answer that in a complete fashion. Then</p> <p>24 we can take a break, I think maybe a ten-, 15-minute</p> <p>25 break on the hour every hour, if that works for you.</p>	<p style="text-align: right;">Page 12</p> <p>1 Q. And do you understand that if you fail to</p> <p>2 tell the truth today that is considered perjury?</p> <p>3 A. Yes, I do.</p> <p>4 Q. Okay. To that end, is there anything</p> <p>5 today preventing you from providing complete,</p> <p>6 accurate, and truthful testimony?</p> <p>7 A. No, sir.</p> <p>8 Q. Any questions about these basic ground</p> <p>9 rules, instructions?</p> <p>10 A. No, sir, not from me.</p> <p>11 Q. Okay. Mr. Cruzan, what did you do to</p> <p>12 prepare for your deposition today?</p> <p>13 A. I met with Bill and Tim. I'm sorry. I</p> <p>14 don't remember Tim's last name. But as far as</p> <p>15 reviewing documents, I didn't do any preparation</p> <p>16 there. I'm going to be relying on my memory.</p> <p>17 Q. Okay. And you met with your counsel.</p> <p>18 How did you meet? Did you do it virtually or in</p> <p>19 person?</p> <p>20 A. It was through a virtual. I think it was</p> <p>21 Zoom, but I'm not sure. It was virtual for sure.</p> <p>22 Q. When was that interaction?</p> <p>23 A. I'd have to get some help with the dates,</p> <p>24 but it was last week and I believe the week before,</p> <p>25 once for a couple of hours and once for a little bit</p>
<p style="text-align: right;">Page 11</p> <p>1 If you do not understand a question that I've asked,</p> <p>2 just let me know and I will repeat or rephrase the</p> <p>3 question and I'll do my best to clarify what I'm</p> <p>4 trying to ask you. Okay?</p> <p>5 A. Okay. That sounds great.</p> <p>6 Q. And if you answer a question I've asked,</p> <p>7 I'm going to assume that you have understood the</p> <p>8 question I've asked. Is that okay?</p> <p>9 A. Okay. Sure. Yes.</p> <p>10 Q. Is anyone in the room with you?</p> <p>11 A. No. I'm out on my back deck, which may</p> <p>12 be a problem for me as the heat comes up. This was</p> <p>13 the best place I could go to get some privacy. So</p> <p>14 I'll do my best to remain here for the remainder, but</p> <p>15 it's supposed to get 80 degrees today. Best I could</p> <p>16 do to get some privacy. So nobody is out here. To</p> <p>17 answer your question, nobody is out here with me.</p> <p>18 Q. Okay. Do you understand, sir, that your</p> <p>19 deposition today has the same force and effect as if</p> <p>20 you were in front of a judge and a jury?</p> <p>21 A. Yes, I do.</p> <p>22 Q. And do you understand, Mr. Cruzan, that</p> <p>23 portions of your videotaped deposition may be played</p> <p>24 to the court if this case were to go to trial?</p> <p>25 A. Yes, I do.</p>	<p style="text-align: right;">Page 13</p> <p>1 less than an hour.</p> <p>2 Q. Okay. Did you talk to anyone else other</p> <p>3 than your counsel in preparation for your deposition</p> <p>4 today?</p> <p>5 A. No, I haven't.</p> <p>6 Q. And you said you did not review any</p> <p>7 documents at all?</p> <p>8 A. Well, let me take that back. So I was</p> <p>9 shown a couple of documents during those conversations</p> <p>10 to refresh my memory. So, yeah, I guess just that.</p> <p>11 No independent searches or studies or sort of</p> <p>12 reviewing, short of just that conversation I had with</p> <p>13 them, DOJ attorneys.</p> <p>14 Q. Okay. Did you make any notes about the</p> <p>15 events involved in this case that you have in front of</p> <p>16 you?</p> <p>17 A. I have no notes in front of me and I</p> <p>18 don't believe that I have any notes at all from the</p> <p>19 event.</p> <p>20 Q. Okay. Do you understand, Mr. Cruzan,</p> <p>21 that the purpose and reason for you being deposed</p> <p>22 today is in connection with the State of North</p> <p>23 Dakota's case filed against the United States under</p> <p>24 the Federal Tort Claims Act involving the state's</p> <p>25 claim for recovery of \$38 million in damages as a</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 14</p> <p>1 result of the U.S. Army Corps of Engineers and other 2 federal agencies and official's actions associated 3 with the protests against the Dakota Access Pipeline? 4 A. That's a little more detail than I had, 5 but I generally did understand that that's what we 6 were here to talk about, was the actions from the 7 State of North Dakota. 8 Q. Okay. Are you aware of any of the 9 Court's rulings in the case thus far? 10 A. I'm sorry. I'm not. 11 Q. Okay. Are you aware this case is pending 12 in the United States District Court for the District 13 of North Dakota located in Bismarck, North Dakota? 14 A. No, sir. I'm not familiar with any of 15 the proceedings that have been ongoing. 16 Q. Okay. Mr. Cruzan, where are you from? 17 A. Well, I'm from Joplin, Missouri. Webb 18 City, Missouri, is where I was born and raised. 19 Q. Okay. And I believe you said you're 20 currently residing in Huddleston, Virginia? 21 A. Yeah. Yes, sir. It's Huddleston, 22 H-u-d-d-l-e-s-t-o-n. 23 Q. Got it. How long have you lived in 24 Huddleston, Virginia? 25 A. We have been here since January of this</p>	<p style="text-align: right;">Page 16</p> <p>1 reserve police officer, I guess, in Joplin, Missouri. 2 Then I was hired in -- and, again, I apologize for all 3 these dates. It's been long enough I don't remember 4 specifically the dates and even years on some, but 5 that would have probably been 1997. No. It would 6 have been earlier than that. '95 hired by the City of 7 Nevada, N-e-v-a-d-a. That's in Missouri. I was a 8 police officer there, and then got out of law 9 enforcement for just a little bit. 10 I had gotten married, and my wife and I 11 decided that working those night shifts and things 12 weren't the best for us. So I got out of law 13 enforcement for just a few minutes and then was hired 14 by the Miami Tribe of Oklahoma, which is where I'm an 15 enrolled tribal member. And I was a tribal police 16 officer for a couple of years and then hired by the 17 Bureau of Indian Affairs as a uniformed police 18 officer. And that was probably 1997, '96 or '97. 19 And I did that for a number of years, 20 progressed through that organization to different 21 roles. And then from the Bureau of Indian Affairs, I 22 was hired by the Pentagon Force Protection. So this 23 was probably in I want to say 2000 -- probably 2005 24 hired by the Pentagon Force Protection as a criminal 25 investigator. And then back to the Bureau of Indian</p>
<p style="text-align: right;">Page 15</p> <p>1 year. 2 Q. Okay. 3 A. Not quite a year. 4 Q. I understand. And would you go over your 5 education, your formal education since high school, 6 please. 7 A. Sure. So I did my post high school 8 education a little bit differently than a lot. I got 9 straight into law enforcement. I didn't get my 10 college degree until -- actually, I think it was much 11 later. It was probably 2000 -- I'm guessing on the 12 date here -- probably 2006 or '7. And I did that 13 online through Mountain State College in Beckley, West 14 Virginia. And so I have a bachelor's degree in 15 criminal justice administration. So that's my formal 16 education extent. 17 Q. Okay. And then if you would do the same 18 and explain to me your professional employment 19 history. 20 A. Okay. Sure. So I started out as a -- 21 how far would you like me to go back on that? 22 Q. Well, I think you said after high school 23 you took a job in law enforcement. So maybe -- 24 A. Yeah. Okay. I'll go all the way back 25 there. So I started out as a police reserve, a</p>	<p style="text-align: right;">Page 17</p> <p>1 Affairs in 2010 as the director of the Bureau of 2 Indian Affairs. 3 And then 2017 I went to the Bureau of 4 Indian Education for a short time as a senior adviser 5 to the director of Bureau of Indian Education, and 6 then from there was put into the position of director 7 of law enforcement for the Department of Interior. 8 And then in 2019, I think, I went to the 9 Department of Homeland Security Federal Law 10 Enforcement Training Centers as the assistant director 11 out of the Washington, D.C., field office. 12 And I'm happy to walk back through any of 13 those. I know I kind of rushed through that, but I'm 14 happy to walk back through that if you need more 15 clarification or if the dates don't line up just 16 right. That's the progression of my career. 17 Q. Okay. 18 A. Retired in May of last year. 19 Q. And the position that you retired from? 20 A. I was assistant director for FLETC, 21 Federal Law Enforcement Training Center. It's a DHS 22 component. 23 Q. Okay. So you -- could you explain a 24 little bit more your role as -- with the Pentagon 25 Force Protection?</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 18</p> <p>1 A. Yes, sir. Sure. So I was a special 2 agent, sort of served as an assistant special agent in 3 charge role and oversaw the criminal investigations 4 and internal affairs investigations and executive 5 protection for the Pentagon Force Protection Agency. 6 So, you know, we would do mostly 7 low-level investigations, mostly, believe it or not, 8 parking pass fraud investigations or, you know, 9 missing computers, things like that. Not much in 10 terms of crimes against people, but more those types 11 of things, and then also dignitary protection. So we 12 had a role with the undersecretaries of defense. And 13 then visiting dignitaries that were in the United 14 States to visit with DOD officials, we would often put 15 protection details on them. So that was my primary 16 role there. 17 Q. I see. And then you were director of the 18 Bureau of Indian Affairs after that? 19 A. Yes, I was. 20 Q. And how long did that position entail? 21 A. So from 2010 -- again, I don't recall 22 exactly the month, but from 2010 to 2017, sometime in 23 2017. 24 Q. Okay. So seven years? 25 A. Yes.</p>	<p style="text-align: right;">Page 20</p> <p>1 Indian Affairs. 2 So there is a director of the Bureau of 3 Indian Affairs that was my director supervisor. So I 4 just want to be clear on that so there's no confusion. 5 And I'll try to do a better job of classifying that 6 when I'm talking about the director of the Bureau of 7 Indian Affairs Office of Justice Services, that's what 8 I'll be referring to, is the law enforcement 9 component. 10 I had been there from 2010 to 2017, which 11 probably was a couple of times longer than any prior 12 director that we had had. I approached the assistant 13 secretary about an opportunity to take a breather over 14 at the Bureau of Indian Education. He and I had had a 15 conversation about some sexual assaults of students 16 that were at some of these Indian schools, Bureau of 17 Indian Education schools. 18 These students were there and I thought 19 that, you know, there was an opportunity to provide 20 some policies and procedures within the Bureau of 21 Indian Education to address some of the safety 22 concerns they were having. And I thought that would 23 be a good opportunity for me to sort of get a 24 different look, you know, stay in this line of work, 25 but, you know, not at the same pace I had been.</p>
<p style="text-align: right;">Page 19</p> <p>1 Q. Okay. Was that essentially the period 2 that President Obama was in office? 3 A. Yeah. Yes, I believe that's right. So I 4 was at the Pentagon, I think -- the only reason I 5 remember that is because we did the inauguration there 6 at the Pentagon -- not the inauguration, but sort of 7 the staging area. So during that period I was at the 8 Pentagon at the beginning, and I suppose at the end I 9 would have been at the Department of Interior. 10 Q. Okay. Were you BIA director through the 11 end of 2017 or at some point prior to that? 12 A. Yeah. You know, I'm sorry. I don't know 13 that right off the top of my head. I don't believe it 14 was through the end of 2017. I just don't recall 15 exactly the month. 16 Q. Okay. And then after you were BIA 17 director, you went to the Department of Homeland 18 Security? 19 A. Well, there was -- no, sir. So I was 20 there as the -- and to be clear, to be very clear on 21 this, the director of the Bureau of Indian Affairs 22 Office of Justice Services is the law enforcement 23 component of that. The official title is deputy 24 bureau director, but forever it's been just referred 25 to in the law enforcement as director of Bureau of</p>	<p style="text-align: right;">Page 21</p> <p>1 So he agreed and allowed me to lateral 2 over to a position within the Bureau of Indian 3 Education that reported to the director of Bureau of 4 Indian Education as a senior adviser focusing on 5 safety issues inside the BIE schools, or Bureau of 6 Indian Education schools. 7 Q. So I'm clear, you were not the director 8 of the Bureau of Indian Affairs. You were the 9 director of the Office of Justice Services? 10 A. That's correct. Yes, sir. That's 11 correct. 12 Q. Got it. Then I think you said that you 13 went on at some point after that to be the director of 14 law enforcement for the Department of Interior; is 15 that correct? 16 A. Yes, sir, I was. After my time at the 17 Bureau of Indian Education, the position -- the 18 director position at the Office of Law Enforcement and 19 Security, which is at the department level, became 20 vacant. And so I was moved from the BIE senior 21 adviser position into the director of law enforcement 22 for the Department of Interior. 23 Q. And can you describe the nature of that 24 position. 25 A. Yes, sir. So it's predominantly an</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 22</p> <p>1 oversight and policy office. There really is no 2 direct line of authority to the Department of Interior 3 bureaus themselves. So there are seven, I think. 4 National Park Service -- and I'm talking about 5 agencies within the Department of Interior that have 6 law enforcement. 7 So there's National Park Service and 8 United States Park Police. Fish and Wildlife has sort 9 of two different. One is investigative. One is 10 uniform. Bureau of Indian Affairs, Bureau of 11 Reclamation, Bureau of Land Management. And so each 12 one of those law enforcement organizations has a 13 director or chief of law enforcement that reports to 14 someone within that agency's line of authority. So I 15 kind of always referred to it as the Department of 16 Interior had a dotted line, not a solid line, of 17 authority to the bureau chiefs of law enforcement. 18 Primarily oversight, policy development, those kind of 19 things is what we did. 20 Q. Do you have a sense of approximately -- 21 not specifically, but approximately. All of those 22 agencies within the Department of Interior that you 23 mentioned that have law enforcement functions -- 24 National Park Service, the park police, Fish and 25 Wildlife Service, the Bureau of Indian Affairs, the</p>	<p style="text-align: right;">Page 24</p> <p>1 the tribes and tribal leadership both at their 2 leadership level and at their law enforcement level. 3 And, again, my whole life has been law enforcement. 4 So I started a company called The Cruzan Group, and 5 our plan was to work with tribes and to improve law 6 enforcement in Indian country. 7 So we did that for about a year. I'm not 8 doing that now. I don't have that -- I still have 9 that business on the -- you know, I'm not incredibly 10 fluent in business acumen outside of the government, 11 but, you know, I think if you go to whatever systems 12 are out there for, you know, the EIN numbers and these 13 kind of things that show a business, I still have that 14 business in principal but not in practice. I'm not 15 doing anything with that. 16 Q. So you did that for a year and then what? 17 You retired or you did something different? 18 A. Well, currently I am -- I'm the director 19 of safety for Mariner's Landing Country Club here in 20 Huddleston. It's out on Smith Mountain Lake in 21 between Lynchburg and Roanoke. We moved to Mariner's 22 Landing Country Club and the owner asked me if I would 23 serve as his director of safety out here in emergency 24 preparedness. And that's what I'm doing. 25 Q. I see. Okay. And you mentioned that you</p>
<p style="text-align: right;">Page 23</p> <p>1 Bureau of Reclamation, and the Bureau of Land 2 Management -- if you tallied up all those agencies, 3 how many law enforcement employees does the Department 4 of Interior have or did have at the time that you were 5 present? 6 A. Yeah. That said, you know, I do not know 7 exactly. I do know that -- 8 Q. Several thousand? 9 A. Yes, sir, I do believe that. And, again, 10 I am -- I just don't know the exact number, but 11 several thousand. And I am thinking the number that 12 comes to my mind that we may have used, you know, is 13 about 2500. But I'm not sure. And I know that ebbs 14 and flows. And what it would have been then and what 15 it is now, certainly I wouldn't know, but I think the 16 number that we used was 2500. 17 Q. Got it. 18 A. As best I can recall. Best I can recall. 19 Q. So after you left the government service 20 that you just explained to me, did you retire, retire 21 or did you take a job in the private sector? 22 A. Well, I didn't take a job, but we created 23 a -- you know, knowing that my background 24 predominantly was law enforcement in Indian country 25 and at a high level, and so I know a lot of sort of</p>	<p style="text-align: right;">Page 25</p> <p>1 are a member -- you're an enrolled member of a Native 2 American tribe? 3 A. Yes, sir. The Miami Tribe of Oklahoma. 4 It's spelled M-i-a-m-i, you know, just like Miami and 5 Miami. 6 Q. Right. And how did you -- can you 7 explain your affiliation with the tribe. How did that 8 come about? 9 A. Well, I mean, it's just part of my 10 family's lineage and it has been for generations, on 11 my mother's side and on her father's side. So it's 12 been part of my life forever. 13 Q. Sure. Got it. So in your position with 14 the Bureau of Indian Affairs as the director of the 15 Office of Justice Services, you were in that position, 16 it sounds like, for the period of the protests against 17 the Dakota Access Pipeline starting in 2016 through 18 your retirement from the BIA in that position in 2017. 19 A. Well, no, sir. I don't think -- not 20 through my retirement from that agency. I didn't 21 retire from Indian Affairs. I moved from the director 22 of BIA over to the adviser -- advisory role for BIE. 23 I mean, you know, if the dates line up 24 that way, I will agree to that. I don't recall as my 25 time as the director of the Bureau of Indian Affairs</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 26</p> <p>1 Office of Justice Services -- and I may have, but I</p> <p>2 don't remember really any conversations about what was</p> <p>3 going on there in North Dakota during my time as the</p> <p>4 director of the Office of Justice Services.</p> <p>5 It may have happened, but I don't think</p> <p>6 it was quite at that point what it turned into. The</p> <p>7 first I really remember hearing about it or having any</p> <p>8 involvement in it was during my time as the adviser of</p> <p>9 Bureau of Indian Education that I can recall.</p> <p>10 Q. Are you saying that as the director of</p> <p>11 the Bureau of Indian Affairs Office of Justice</p> <p>12 Services you were not involved in the DAPL protests?</p> <p>13 A. What I'm saying is that I don't recall</p> <p>14 having any conversations. And it's very possible that</p> <p>15 I did, that there was something that was happening up</p> <p>16 there during that time, but my recollection is that --</p> <p>17 and how I remember sort of my getting involved in it</p> <p>18 was I was sitting in my office in the Bureau of Indian</p> <p>19 Education hallway when the acting director of Bureau</p> <p>20 of Indian Affairs Office of Justice Services, guy by</p> <p>21 the name of Jason Thompson, came into my office and</p> <p>22 asked me if -- and I don't know if he asked me or if</p> <p>23 he told me I was going up there to provide some</p> <p>24 leadership and some guidance.</p> <p>25 So, you know, I could be shown, you know,</p>	<p style="text-align: right;">Page 28</p> <p>1 A. I was a senior adviser. So I was really</p> <p>2 looking at school safety and protocols and procedures</p> <p>3 and assessments at the schools around Indian country.</p> <p>4 Q. You just don't recall that as Bureau of</p> <p>5 Indian Affairs director of the Office of Justice</p> <p>6 Services that you were in North Dakota for weeks in</p> <p>7 time and sent e-mails with a signature block that</p> <p>8 identified you as the director of the Bureau of Indian</p> <p>9 Affairs Office of Justice Services?</p> <p>10 A. Yes, sir. No. That's exactly what I'm</p> <p>11 saying. I don't recall. As I recall, as I remember</p> <p>12 it -- and, again, if these dates don't line up</p> <p>13 exactly, it's not that I'm not trying to be honest</p> <p>14 with you. I'm just saying I don't recall that. What</p> <p>15 I recall is being in the Bureau of Indian Education.</p> <p>16 I don't remember being up there during that time.</p> <p>17 Now, absolutely, I remember being up</p> <p>18 there. That's no question. I'm just trying to make</p> <p>19 sure that I am accurate with what my actual role was</p> <p>20 at the time. And, again, it's been that long ago. So</p> <p>21 I don't remember exactly what date I transitioned from</p> <p>22 the Office of Justice Services over to the Bureau of</p> <p>23 Indian Education.</p> <p>24 If I have the dates wrong, I'm happy to</p> <p>25 say, Okay, well, I must have had the dates wrong. But</p>
<p style="text-align: right;">Page 27</p> <p>1 the dates when that happened, and it may very well</p> <p>2 line up that there were things that were happening,</p> <p>3 but, you know, at that point when I was the director</p> <p>4 of the Bureau of Indian Affairs Office of Justice</p> <p>5 Services, I don't recall having any conversations</p> <p>6 about what was going on with the reservation and the</p> <p>7 protests. I think it grew into something after I was</p> <p>8 in the Bureau of Indian Education position.</p> <p>9 Q. I thought you told me that you were the</p> <p>10 director of the Bureau of Indian Affairs Office of</p> <p>11 Justice Services from 2010 to 2017?</p> <p>12 A. Yes, sir. That is correct.</p> <p>13 Q. And so I asked you also that were you in</p> <p>14 that position between 2016 and March of 2017.</p> <p>15 A. Well, again -- well, I don't remember</p> <p>16 when I moved over to the Bureau of Indian Education.</p> <p>17 And, you know, what was going on in North Dakota at</p> <p>18 that time I don't think got my attention or -- you</p> <p>19 know, we may have -- I just -- I don't remember having</p> <p>20 any conversations about it when I was the director of</p> <p>21 Bureau of Indian -- or with Office of Justice</p> <p>22 Services. When I first really became aware of what</p> <p>23 was going on was when I was moved over to the BIE.</p> <p>24 Q. And what was your scope of your</p> <p>25 responsibility at the BIE?</p>	<p style="text-align: right;">Page 29</p> <p>1 what I'm saying is I don't remember -- as the director</p> <p>2 of the Bureau of Indian Affairs Office of Justice</p> <p>3 Services, I don't think that was my -- I don't recall</p> <p>4 that being the role that I was in at the time that I</p> <p>5 went up there.</p> <p>6 Q. Why did you go to North Dakota?</p> <p>7 A. The assistant -- well, he was my</p> <p>8 assistant director when I was the director and was the</p> <p>9 acting -- or the acting director of the Office of</p> <p>10 Justice Services came into my office and asked me if I</p> <p>11 would go up there and provide some supervision. I was</p> <p>12 still in a law enforcement role at the Department of</p> <p>13 Interior. And I think my authority still came from</p> <p>14 the Bureau of Indian Affairs Office of Justice</p> <p>15 Services. I just don't think I was in that director's</p> <p>16 role.</p> <p>17 Q. Okay. So you're just belaboring the</p> <p>18 distinction of the title name, but you really had a</p> <p>19 law enforcement director function; right?</p> <p>20 A. Well, I think certainly that's what</p> <p>21 people would have recognized me to be in. Whether I</p> <p>22 was in the Bureau of Indian Education role or not, I</p> <p>23 think people there recognized that I was the senior</p> <p>24 official there for the Office of Justice Services.</p> <p>25 Most everybody there would have known me to be the</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 30</p> <p>1 director of the Bureau of Indian Affairs role prior to 2 that.</p> <p>3 So I'm not sure that anybody there would 4 have had a distinction between my role in the BIE and 5 my role in the BIA OJS. I'm not trying to belabor 6 that. I'm just trying to be honest with you and say I 7 remember sitting in that office when they came and 8 asked me to go up there and provide supervision to 9 that.</p> <p>10 Q. Do you recall letting people know in 11 e-mails by using a signature block that identified you 12 as the director of the Bureau of Indian Affairs and 13 Office of Justice Services?</p> <p>14 A. I don't recall that exactly. It may have 15 been that my title signature block hadn't changed. I 16 hadn't changed it, but, I mean, if you have them, I'm 17 happy to say, you know, yeah, that's -- if you have 18 them, I wouldn't dispute that.</p> <p>19 Q. Okay. All right. We can talk about that 20 later. No matter what the distinction you're making, 21 you were in North Dakota as a senior law enforcement 22 person for the Department of Interior, Bureau of 23 Indian Affairs; correct?</p> <p>24 A. Yes, sir, I was. That's correct.</p> <p>25 Q. And in that capacity, Mr. Cruzan, did</p>	<p style="text-align: right;">Page 32</p> <p>1 Standing Rock Tribe was arrested?</p> <p>2 A. Sometime after. I don't remember if it 3 was just after, but it was sometime after that.</p> <p>4 Q. Did you go to North Dakota because of 5 that?</p> <p>6 A. I don't recall. It may have been because 7 of that. It may have been that, you know, we were 8 seeing more people arrive, but I don't recall if it 9 was for that reason.</p> <p>10 Q. Okay. All right. And did your 11 responsibilities include being a Bureau of Indian 12 Affairs Department of Interior liaison with other 13 federal officials?</p> <p>14 A. Well, I don't recall it being anything 15 quite so official, but, you know, I did meet with 16 other people while I was there in the capacity that I 17 was there in. You know, I don't remember ever -- you 18 know, it was a very fluid thing and people would come 19 and go. So I had conversations with a lot of people, 20 but I don't remember it being so formal as sort of -- 21 I don't know that I thought of myself as the liaison 22 for it, but I probably served in that role.</p> <p>23 Q. So yes?</p> <p>24 A. Yes.</p> <p>25 Q. And I'm not just limiting the question to</p>
<p style="text-align: right;">Page 31</p> <p>1 your responsibilities include serving as a liaison 2 with anyone on behalf of the Department of Interior, 3 Bureau of Indian Affairs?</p> <p>4 A. Yes. I definitely met with Sheriff 5 Kirchmeier and the adjunct general and colonel and 6 state police numerous times. I know those were the 7 gentlemen that I liaisoned with most. I may have had 8 conversations with other people, but as far as 9 representing anybody, that would have been who I would 10 have.</p> <p>11 Q. And with those individuals and others, 12 you were invited and indeed participated in meetings 13 held on a regular, if not daily, basis in the Morton 14 County and then the North Dakota emergency response 15 centers, right, law enforcement?</p> <p>16 A. Yes, sir. That is correct.</p> <p>17 Q. Okay. Do you recall when you first went 18 to North Dakota in connection with the Dakota Access 19 Pipeline protest?</p> <p>20 A. I really don't remember that date. I 21 don't remember the date that that was. I believe that 22 it was after the chairman of Standing Rock Sioux Tribe 23 got arrested. I believe it was after that, but I 24 don't recall the exact date.</p> <p>25 Q. Okay. Just after the chairman of the</p>	<p style="text-align: right;">Page 33</p> <p>1 who did you meet with. I'm asking who did you liaison 2 with in your capacity as a senior Bureau of Indian 3 Affairs law enforcement official with other federal 4 officials. And that would include using the telephone 5 or e-mail, which you did quite often; correct?</p> <p>6 A. I did use the telephone and e-mail quite 7 often. I guess maybe if you could help me understand 8 what your definition of "liaison" is because --</p> <p>9 Q. The act of interacting.</p> <p>10 A. Okay. Then I did interact with lots of 11 people while I was there.</p> <p>12 Q. And who were those people and where were 13 they from?</p> <p>14 A. Gosh. I mean, so I definitely interacted 15 with the leadership of the Standing Rock Sioux Tribe.</p> <p>16 Q. I'm talking about federal officials.</p> <p>17 Let's get to the tribe later.</p> <p>18 A. Okay. So -- and names, I don't remember. 19 I know that the U.S. Marshal was there. I had 20 conversations with the U.S. Marshal.</p> <p>21 Q. I'm not just asking you about your time 22 in North Dakota. During the period of the protest, 23 you were in your office in Washington, D.C. or 24 Virginia, whichever, and then you were in North 25 Dakota. So I'm asking about who did you interact with</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 34</p> <p>1 from other federal agencies during your period of</p> <p>2 employment as a senior law enforcement official with</p> <p>3 the Bureau of Indian Affairs?</p> <p>4 A. You're not just speaking about my time in</p> <p>5 North Dakota? You want all of it?</p> <p>6 Q. I've said it twice now. I'm asking you</p> <p>7 about in your capacity, who did you -- for that period</p> <p>8 of time, not your geographic location and limiting it</p> <p>9 to being in North Dakota. I'm asking you during your</p> <p>10 period of employment, that period of time -- and I</p> <p>11 said it again, 2016 to the end of 2017 -- regardless</p> <p>12 of where you were sitting, who did you interact with?</p> <p>13 And "interact with" means talk to on the phone,</p> <p>14 e-mail, wave at, meet with, whatever.</p> <p>15 A. So I would have --</p> <p>16 MR. SCARPATO: Objection to form. Paul,</p> <p>17 give the witness an opportunity to answer the question</p> <p>18 before rephrasing. Thank you.</p> <p>19 A. So I would have met with senior officials</p> <p>20 with U.S. Department of Interior. I would have met</p> <p>21 with officials, and not even senior officials, with</p> <p>22 members and employees of the Department of Interior.</p> <p>23 I would have met with and spoken to people in the</p> <p>24 Department of Justice. I would have met and spoken to</p> <p>25 people -- you know, members of congress and their</p>	<p style="text-align: right;">Page 36</p> <p>1 without just naming federal agencies -- employees of</p> <p>2 the Department of Interior and Department of Justice.</p> <p>3 That's who I would have had communications with</p> <p>4 predominantly.</p> <p>5 Q. When you were in -- during the period of</p> <p>6 the DAPL protests, not just when you were physically</p> <p>7 traveling to North Dakota for a period of time --</p> <p>8 periods of time, but when you were in your position</p> <p>9 and then you went to North Dakota on trips; right?</p> <p>10 A. Which position are we talking about?</p> <p>11 Q. The one you were in for the Department of</p> <p>12 Interior, Bureau of Indian Affairs Office of Justice</p> <p>13 Services from 2016 to 2017. Can we move on and</p> <p>14 understand that's what the period of time we're</p> <p>15 talking about is?</p> <p>16 A. Well, my recollection of that time frame</p> <p>17 is that I was in a couple of different roles. I was</p> <p>18 with the Bureau of Indian Affairs Office of Justice</p> <p>19 Services. I was also with the Bureau of Indian</p> <p>20 Affairs -- or Bureau of Indian Education. So I'm not</p> <p>21 trying to, you know, mince that. I just want to make</p> <p>22 sure you're talking about my time that I was</p> <p>23 interacting in North Dakota or Bureau of Indian</p> <p>24 Education or Bureau of Indian Affairs.</p> <p>25 Q. Because you're not clear about what</p>
<p style="text-align: right;">Page 35</p> <p>1 staff.</p> <p>2 I would have spoken to a lot of people in</p> <p>3 my capacity in that position. So I'm not trying to</p> <p>4 not answer the question. I just don't completely</p> <p>5 understand what you're asking. I know you've asked it</p> <p>6 several times. I just don't understand more than that</p> <p>7 what it is that you are asking.</p> <p>8 Q. (BY MR. SEBY) Keep going then. You're</p> <p>9 listing federal officials and agencies. Keep going.</p> <p>10 What other federal officials and agencies as you're</p> <p>11 starting to list off some. You're starting, and I'll</p> <p>12 bet you've got more in mind. So carry on.</p> <p>13 A. Well, I'm trying to think. During that</p> <p>14 time frame I would have spoken with somebody with,</p> <p>15 like I said, U.S. Marshal. The Department of Justice</p> <p>16 covers quite a few agencies. And Army Corps of</p> <p>17 Engineers.</p> <p>18 Q. And who from the Corps?</p> <p>19 A. Well, I wouldn't have remembered his name</p> <p>20 until last week when it was mentioned. Colonel</p> <p>21 Henderson.</p> <p>22 Q. Okay. Who else?</p> <p>23 A. Now you've got me just going through my</p> <p>24 Rolodex of people that I might have met with. Most of</p> <p>25 my interactions would have been -- that I can think of</p>	<p style="text-align: right;">Page 37</p> <p>1 capacity you served in, can we stipulate that you were</p> <p>2 a senior law enforcement official with the Bureau of</p> <p>3 Indian Affairs?</p> <p>4 A. Absolutely. That's helpful. Absolutely.</p> <p>5 Q. Great. Great. So in that capacity in</p> <p>6 the year 2016 through the end of 2017, when you went</p> <p>7 to North Dakota, were you the senior Department of</p> <p>8 Interior official in the state during the protests?</p> <p>9 A. I think for that protest, yes.</p> <p>10 Q. What other department --</p> <p>11 A. Let me specify that. On the Standing</p> <p>12 Rock Sioux Reservation. I had no authority or context</p> <p>13 or ability to speak about anything that was happening</p> <p>14 there, short of what was occurring within the interior</p> <p>15 boundaries of the reservation. I would have had no</p> <p>16 authority to speak to anybody about anything.</p> <p>17 Q. Got it. And what other Department of</p> <p>18 Interior persons were in North Dakota during that same</p> <p>19 period of time on or outside the Standing Rock Sioux</p> <p>20 Tribe Reservation?</p> <p>21 A. Certainly. Certainly. So there were</p> <p>22 definitely Bureau of Indian Affairs law enforcement</p> <p>23 that were from Standing Rock and then there were</p> <p>24 Bureau of Indian Affairs Office of Justice Services</p> <p>25 personnel that we detailed in from other reservations.</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 38</p> <p>1 And then eventually we requested</p> <p>2 additional assistance from sister agencies within the</p> <p>3 Department of Interior, National Park Service -- all</p> <p>4 of those that I had mentioned earlier, National Park</p> <p>5 Service, Fish and Wildlife, U.S. Park Police, BLM. I</p> <p>6 don't know that they were all able to send folks. And</p> <p>7 then we did have an individual --</p> <p>8 Q. Let me stop you. Earlier you told me</p> <p>9 that the Department of Interior has 2500 law</p> <p>10 enforcement employees from the Park Service -- I'm</p> <p>11 sorry -- the National Park Service, the Park Police,</p> <p>12 Fish and Wildlife Service, the Bureau of Indian</p> <p>13 Affairs, the Bureau of Reclamation, and the Bureau of</p> <p>14 Land Management. Which of those did you request and</p> <p>15 receive additional law enforcement personnel in North</p> <p>16 Dakota?</p> <p>17 A. Yes. So the request went out to all of</p> <p>18 those agencies. I can tell you with certainty that we</p> <p>19 had National Park Service law enforcement personnel</p> <p>20 were there. Fish and Wildlife uniform and maybe</p> <p>21 agents -- we'll just say U.S. Fish and Wildlife</p> <p>22 Service had folks there. Bureau of Land Management</p> <p>23 had some folks there. United States Park Police had</p> <p>24 folks there. I don't believe Bureau of Reclamation</p> <p>25 had anyone available to assist.</p>	<p style="text-align: right;">Page 40</p> <p>1 gathering and those kind of things. So those</p> <p>2 individuals may have attended some of those meetings,</p> <p>3 because oftentimes those meetings were in the same</p> <p>4 workspace that they were doing their work in.</p> <p>5 So, yes, Department of Interior Office of</p> <p>6 Law Enforcement and Security folks would have attended</p> <p>7 those with me occasionally, but other than that, none</p> <p>8 of the other bureau agencies that I can recall</p> <p>9 attended them.</p> <p>10 Q. So you've had a long history in law</p> <p>11 enforcement, haven't you?</p> <p>12 A. I think so, yes, sir.</p> <p>13 Q. In that long history, prior to the</p> <p>14 protests against the Dakota Access Pipeline, what was</p> <p>15 your experience with large public protests?</p> <p>16 A. Gosh, to that degree, none.</p> <p>17 Q. I didn't say same as the protest in North</p> <p>18 Dakota. I said other large.</p> <p>19 A. You know, I was part of a large gather --</p> <p>20 was the question protests or gatherings?</p> <p>21 Q. Large public protests.</p> <p>22 A. None.</p> <p>23 Q. How about violent protests? What was</p> <p>24 your experience with violent protests?</p> <p>25 A. None.</p>
<p style="text-align: right;">Page 39</p> <p>1 Q. And those individuals when they were</p> <p>2 there in North Dakota, were they limited like you to</p> <p>3 just the Standing Rock Sioux Tribe?</p> <p>4 A. Yes, sir, they would have been. They</p> <p>5 were acting under the authority of Bureau of Indian</p> <p>6 Affairs, our authority to enforce laws on the Indian</p> <p>7 reservations.</p> <p>8 Q. Did they attend any of the State of North</p> <p>9 Dakota Law Enforcement Center -- operation center</p> <p>10 meetings like you did?</p> <p>11 A. Let me give you one more agency that was</p> <p>12 there that I just remembered. So the Department of</p> <p>13 Interior Office of Law Enforcement Services had</p> <p>14 personnel, one or two, that would come to assist. And</p> <p>15 those individuals would occasionally attend those</p> <p>16 meetings with me or for me if I wasn't able to attend.</p> <p>17 But I don't recall any of the bureau personnel</p> <p>18 attending any of those meetings. It's possible that</p> <p>19 they did, but I don't recall that.</p> <p>20 There was a time early when -- and it</p> <p>21 kind of changed back and forth that we had folks from</p> <p>22 the Bureau of Indian Affairs in the command structure</p> <p>23 at Morton County that were doing things like -- as</p> <p>24 part of their efforts, you know, working in</p> <p>25 conjunction with them that would do intelligence</p>	<p style="text-align: right;">Page 41</p> <p>1 Q. Do you have any professional law</p> <p>2 enforcement experience with complex law enforcement</p> <p>3 situations? You interpret that as you may and then</p> <p>4 answer the question, please.</p> <p>5 A. Yes.</p> <p>6 Q. Okay. Would you describe those for me?</p> <p>7 A. Sure. So Indian Affairs is oftentimes</p> <p>8 classified as a complicated jurisdictional maze where,</p> <p>9 you know, an individual's affiliation with a Native</p> <p>10 American tribe or a person's non-affiliation with a</p> <p>11 Native American tribe within a boundary of a</p> <p>12 reservation is incredibly complicated.</p> <p>13 And managing the Bureau of Indian Affairs</p> <p>14 Office of Justice Services, a nationwide program, is</p> <p>15 very diverse and spread out. Many will say</p> <p>16 understaffed and difficult to manage. So my</p> <p>17 experience managing the Bureau of Indian Affairs, I</p> <p>18 think, would fall into that classification as managing</p> <p>19 a complicated situation, organization, however you</p> <p>20 phrased that.</p> <p>21 Q. During the DAPL protests, whether you</p> <p>22 were physically in North Dakota or elsewhere, did you</p> <p>23 receive regular status reports from the State of North</p> <p>24 Dakota law enforcement regarding the protesters'</p> <p>25 presence on lands in North Dakota?</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 42</p> <p>1 A. Yes, I would say I did.</p> <p>2 Q. And what lands do you recall those</p> <p>3 protesters being present on?</p> <p>4 A. Can you repeat that question? Getting</p> <p>5 details from the State of North Dakota on protesters</p> <p>6 would have been on that property or on that land north</p> <p>7 of the Cannonball River from the Standing Rock</p> <p>8 Reservation. And I think I have the direction right.</p> <p>9 If I don't have it right -- but it was on the Army</p> <p>10 Corps of Engineers land. So if that's north of the</p> <p>11 Cannonball River from the Standing Rock Reservation,</p> <p>12 that's what I'm referring to.</p> <p>13 Q. Thank you. You mentioned three gentlemen</p> <p>14 with the State of North Dakota law enforcement. Did</p> <p>15 those people provide you with these status reports?</p> <p>16 A. Well, two of them were law enforcement.</p> <p>17 One of them was national guard. And those would have</p> <p>18 been the individuals mostly that I would have gotten</p> <p>19 information from like that on a reoccurring basis.</p> <p>20 Q. Okay. Colonel Gerhart and Sheriff</p> <p>21 Kirchmeier?</p> <p>22 A. Kirchmeier, yes, sir.</p> <p>23 Q. Did you ever ask for information or</p> <p>24 intelligence from those individuals in North Dakota</p> <p>25 for which you were not provided?</p>	<p style="text-align: right;">Page 44</p> <p>1 recall, we would give updates on what we were seeing</p> <p>2 on the reservation side of the Cannonball River,</p> <p>3 numbers of campers either growing or shrinking and</p> <p>4 those kind of things.</p> <p>5 Q. Okay. Do you also recall while you were</p> <p>6 present in those law enforcement coordination and</p> <p>7 activity sessions that you watched live real-time</p> <p>8 footage of activities in the protest camp?</p> <p>9 A. I do recall watching, like, caravans of</p> <p>10 vehicles. I think there was a -- I don't know what</p> <p>11 agency had it, if it was -- it may have been the coast</p> <p>12 guard. I don't recall exactly, but watching caravans</p> <p>13 of vehicles traveling around.</p> <p>14 I don't know that I -- I'm sure there</p> <p>15 were videos of the campsite itself, too, but I</p> <p>16 specifically remember watching -- because they were</p> <p>17 very interested in that, as we were, where those</p> <p>18 caravans were going, because oftentimes they would</p> <p>19 come into the city and do their protesting there. So</p> <p>20 I do remember sitting in there and watching videos.</p> <p>21 Q. Are you thinking that that footage was</p> <p>22 provided by the United States Customs and Border</p> <p>23 Patrol?</p> <p>24 A. That is who I think it was. I think I</p> <p>25 said coast guard, but yeah, I do believe it was</p>
<p style="text-align: right;">Page 43</p> <p>1 A. Not that I'm aware of, no. We had a good</p> <p>2 relationship and I think information passed back and</p> <p>3 forth pretty well. I don't know that I would have</p> <p>4 been -- well, not that I'm aware of.</p> <p>5 Q. Okay. All right. So you sat for many</p> <p>6 days with those gentlemen and their colleagues in</p> <p>7 North Dakota law enforcement and received numerous</p> <p>8 updates about the nature of the protests; right?</p> <p>9 A. Yes, sir. As I recall, the meetings were</p> <p>10 either daily or every other day, but I think they were</p> <p>11 daily and they would typically last for about an hour</p> <p>12 in the morning. Most of the time we would -- because</p> <p>13 I was staying in Bismarck, we would start our day at</p> <p>14 that briefing early and then head down to the</p> <p>15 reservation. So, yeah, I did sit there.</p> <p>16 Q. Okay. Along with -- in those daily</p> <p>17 briefings that you attended, did you watch -- what did</p> <p>18 you do during those meetings? What did you -- what do</p> <p>19 you recall your presence involving -- what did you</p> <p>20 see, what did you hear from, that kind of thing?</p> <p>21 A. I was predominantly in listening mode to</p> <p>22 see what was -- they had a much more robust ability --</p> <p>23 robust ability to gather intel than I did. And so I</p> <p>24 was mostly in a listening mode to see what they were</p> <p>25 seeing, to hear what they were seeing. And then as I</p>	<p style="text-align: right;">Page 45</p> <p>1 customs, now that you mention it.</p> <p>2 Q. That was footage from an aerial drone;</p> <p>3 correct?</p> <p>4 A. That's correct.</p> <p>5 Q. And you also talked about that footage by</p> <p>6 that federal agency showed caravans of vehicles</p> <p>7 leaving the protest camps on Corps property; is that</p> <p>8 correct?</p> <p>9 A. Yes, I do remember that. Yes, sir.</p> <p>10 Q. Okay. And those caravans would travel to</p> <p>11 Bismarck and Mandan, North Dakota?</p> <p>12 A. Right. I definitely do know that that</p> <p>13 was what the concern was. We also saw sometimes where</p> <p>14 they would just drive in great big squares and come</p> <p>15 back. So I don't want to say that they always ended</p> <p>16 up in Mandan and Bismarck, but on occasion they</p> <p>17 certainly did end up.</p> <p>18 Q. They also went to go to the DAPL</p> <p>19 construction site, too, didn't they?</p> <p>20 A. I'm sure that they did. I don't recall</p> <p>21 watching any video of that. I know that that was -- I</p> <p>22 feel like that was their goal, for sure. I don't</p> <p>23 remember seeing any video of that, getting to the</p> <p>24 site, but I certainly know that they were trying.</p> <p>25 Q. Do you recall the footage provided by the</p>

Page 46

1 drone operated by the United States Customs and Border
2 Patrol being present and then one day not being
3 present?

4 A. I don't remember that.

5 Q. Was it there throughout the period of the
6 protest?

7 A. You know, I don't really remember how
8 often it was there. I remember thinking that it was a
9 good tool, but I don't remember, you know -- I don't
10 remember time frames when I first saw it, how long I
11 saw it. I don't remember anything like that.

12 Q. Did you also watch live real-time footage
13 and photography provided by the State of North Dakota
14 Highway Patrol plane?

15 A. I do remember something like that,
16 because -- I do remember something like that because I
17 think there was a report that a rifle or a handgun or
18 something had been pointed at it. That's all that I
19 really remember about that. I don't remember much
20 detail of it.

21 Q. Okay. So you mentioned that you would
22 provide to the North Dakota Law Enforcement Centers
23 that you participated in personally -- you provided
24 information from the Standing Rock Sioux Tribe
25 intelligence from campers, you said protesters; right?

Page 47

1 Is that a fair interchangeable word when you say
2 "campers," protesters?

3 A. I think that's a fair statement. You
4 know, I think it was all part and parcel of the same
5 group. Maybe different tactics, but I think it's fair
6 that they were protesting the pipeline. And, yes, I
7 would -- I recall, you know, as it would come around
8 the room -- I think at the end of each meeting it kind
9 of went around, does anybody have anything else and
10 they would talk to different people. As I recall,
11 that was mainly what I would do, would be to just give
12 an update on what we're seeing. Mostly that would be
13 numbers of campers on the south side of the Cannonball
14 River.

15 Q. Numbers of campers?

16 A. Numbers of campers.

17 Q. And how did you determine those numbers?

18 A. Rough estimate. We weren't down there in
19 the camps. So I wouldn't have had exact numbers, but
20 I think we -- it was basically, it looks like it's
21 bigger, it looks like it's smaller. I think we would
22 also sort of look at the traffic on the road and the
23 number of people that were in and around the tribal
24 casino. General estimations on size, not anything --
25 we would have had no way of knowing any specific

Page 48

1 numbers.

2 Q. Okay. You also sought and received
3 information on the protests from the pipeline company;
4 correct?

5 A. Say that -- ask me that again. I sought?

6 Q. I'll ask it again.

7 A. Please.

8 Q. Did you also seek and receive reports and
9 other information on the protests from the pipeline
10 company, the company building the pipeline?

11 A. I don't recall that at all. I may have
12 received information through those briefings that were
13 being conducted at the sheriff's office, but I don't
14 recall any conversations with the builders of the
15 pipeline or asking information or receiving
16 information. I don't recall that.

17 Q. Okay. You received information, you
18 said, from the Federal Bureau of Investigation;
19 correct?

20 A. No. I said that I had spoken with them.
21 You asked me if I had spoken with them. I don't know.
22 That was a very general conversation. So I don't want
23 you to make it sound as though I had asked the FBI for
24 any specific information. We had had conversations,
25 I'm sure, because they were also at those meetings.

Page 49

1 And I'm sure during and after and before there were
2 conversations, but I just don't want it to be -- I
3 don't want you to think that I had deep, long
4 conversations with them about the protests.

5 Q. I'm not asking if they were deep or long,
6 but you received information from the Federal Bureau
7 of Investigation; correct?

8 A. I'm sure that I received information
9 through conversations that we had.

10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]

18 Q. What is the "later" reference? When in
19 2016 to the March/April time frame in 2017 are you
20 referring to?

21 A. Well, it would have been close to
22 whatever the last day of the protests were. And I
23 don't want to say it was the last day, but I think it
24 was -- I didn't -- I wasn't aware that there were FBI
25 informants in there for much of the time that I was

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 50</p> <p>1 there.</p> <p>2 Q. But you were --</p> <p>3 A. Towards the end of it, I certainly was.</p> <p>4 Q. I understand what you're saying now. You</p> <p>5 are aware, though, and were aware at the time that the</p> <p>6 Bureau of Indian Affairs had informant sources located</p> <p>7 on the reservation; correct?</p> <p>8 A. Certainly, yeah, for sure. We had folks</p> <p>9 that were -- yes, there was.</p> <p>10 Q. And those were people who were informants</p> <p>11 that provided you information about happenings inside</p> <p>12 the camps located on the Standing Rock Sioux Tribe</p> <p>13 Reservation?</p> <p>14 A. Yeah. They were more than informants.</p> <p>15 It was a couple of our narcotics agents that just hung</p> <p>16 around the casino, mostly.</p> <p>17 Q. Were they uniformed?</p> <p>18 A. At the time they were not, no.</p> <p>19 Q. So they were undercover?</p> <p>20 A. Yeah. Well, yeah. Okay. Fair enough.</p> <p>21 Q. And did they report to you information</p> <p>22 about behavior and types of people who were in the</p> <p>23 reservation?</p> <p>24 A. Yeah, they did. I don't -- you know, I</p> <p>25 don't recall any real specific things that were said.</p>	<p style="text-align: right;">Page 52</p> <p>1 sure. I don't know if they --</p> <p>2 Q. Firearms?</p> <p>3 A. -- had lots of experience. Certainly.</p> <p>4 Q. Weapons?</p> <p>5 A. Sure.</p> <p>6 Q. And, in fact, they relayed to you</p> <p>7 information concerning the presence of all of those</p> <p>8 things in the -- from the camps, the protesters, the</p> <p>9 campers on the Standing Rock Sioux Tribe Reservation;</p> <p>10 correct?</p> <p>11 A. I don't -- you know, again, I don't</p> <p>12 remember exactly what was relayed to me from those</p> <p>13 guys. We did have conversations. You know, specifics</p> <p>14 of what was -- you know, you say weapons and those</p> <p>15 kind of things. I don't recall that conversation with</p> <p>16 those guys.</p> <p>17 Q. What did they talk to you about?</p> <p>18 A. What they were seeing, you know, numbers</p> <p>19 of people at the casino and at the camps and those</p> <p>20 sort of things, but again, I don't really recall any</p> <p>21 specific, you know, conversations and what was said.</p> <p>22 Q. You do recall, though, them telling you</p> <p>23 that the protesters and campers that were coming on or</p> <p>24 off the reservation were also affiliated with or</p> <p>25 interchangeable with the protesters on the Corps of</p>
<p style="text-align: right;">Page 51</p> <p>1 I think it was -- again, it was part of our effort to</p> <p>2 gather intel on, you know, what was happening within</p> <p>3 the boundaries of the reservation and if there were</p> <p>4 any plans to move camps or add camps or those sorts of</p> <p>5 things.</p> <p>6 And I don't remember how long they were</p> <p>7 there. I don't think they were there for a long, long</p> <p>8 amount of time. I don't think we had them there the</p> <p>9 entirety of the event or the time that I was there.</p> <p>10 But we definitely did have a couple that were there</p> <p>11 from our drug unit.</p> <p>12 Q. And they were letting you know about</p> <p>13 campers present in the Standing Rock Sioux Tribe</p> <p>14 Reservation?</p> <p>15 A. In general, yes. That's right.</p> <p>16 Q. Campers, protesters also; right?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And were they trained in narcotics</p> <p>19 issues?</p> <p>20 A. Yes.</p> <p>21 Q. Alcohol?</p> <p>22 A. I mean, trained in recognizing alcohol</p> <p>23 or --</p> <p>24 Q. Yes. The presence and use thereof.</p> <p>25 A. Well, sure. Lots of experience, for</p>	<p style="text-align: right;">Page 53</p> <p>1 Engineers property you mentioned?</p> <p>2 A. I don't know if I can say that I remember</p> <p>3 them telling me that. That was something that was</p> <p>4 obvious to me. You know, it wasn't -- you didn't have</p> <p>5 reservation people and non-reservation people. It was</p> <p>6 fluid. So I don't recall if they told me that or not.</p> <p>7 Q. Okay.</p> <p>8 A. But I knew that to be the case.</p> <p>9 Q. Yes. Okay. And were you also made aware</p> <p>10 of sex trafficking on the reservation associated with</p> <p>11 the DAPL protests?</p> <p>12 A. I was not aware of that.</p> <p>13 Q. How about the larger camps located on the</p> <p>14 Corps property?</p> <p>15 A. I was not made aware of any sex</p> <p>16 trafficking.</p> <p>17 Q. Drug trafficking?</p> <p>18 A. Well, I don't know that I was made aware</p> <p>19 of it. I think it was -- with my experience, it was</p> <p>20 an understood that there was drugs in the camps. I</p> <p>21 don't recall a specific conversation where anybody</p> <p>22 said that, but I certainly didn't believe that it</p> <p>23 wasn't occurring.</p> <p>24 Q. Okay. And you said that you were aware</p> <p>25 in mid-August or early August of 2016 that protesters</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 54</p> <p>1 went onto the Corps of Engineers property north of the 2 Cannonball River?</p> <p>3 A. That I was aware that there were 4 protesters on the north side of the Cannonball River? 5 I was aware that there were protesters on site, but I 6 do think it's -- you know, that was not an area where 7 I had -- I want to be clear. I'm assuming you 8 understand Indian country jurisdiction and authority 9 and where my boundaries were. I had no authority 10 outside of the exterior boundaries. So anything that 11 I had was from what I could see or what I was being 12 told at these briefings.</p> <p>13 Q. And you were also aware that DAPL protest 14 camps were established on Corps of Engineers land 15 south of the Cannonball River; correct?</p> <p>16 A. I am, yes.</p> <p>17 Q. Okay. All right. Mr. Cruzan, we've been 18 going for a little bit more than an hour. How about a 19 ten-, 15-minute break?</p> <p>20 A. That sounds great.</p> <p>21 MR. SEBY: Go off the record, please.</p> <p>22 THE VIDEOGRAPHER: We are off the record 23 at 9:42 a.m.</p> <p>24 (Recess taken, 9:42 a.m. to 9:57 a.m.)</p> <p>25 THE VIDEOGRAPHER: We are back on the</p>	<p style="text-align: right;">Page 56</p> <p>1 Rock Sioux Reservation; correct?</p> <p>2 A. Yes, sir. That is correct.</p> <p>3 Q. And acting chief of police, he is a BIA 4 agent; is that correct?</p> <p>5 A. He would have been a uniformed 6 lieutenant, yes. Police officer, yes, for the BIA.</p> <p>7 Q. And he's writing this to a Jeremiah 8 Lonewolf?</p> <p>9 A. Yes.</p> <p>10 Q. Who has a title of ASAC. What does that 11 stand for?</p> <p>12 A. So Jeremiah Lonewolf would have been 13 assistant special agent in charge. He would have been 14 at the district office in Aberdeen.</p> <p>15 Q. South Dakota?</p> <p>16 A. South Dakota, yes, sir.</p> <p>17 Q. Okay. And Mr. -- or Lieutenant Harmon 18 tells Mr. Lonewolf that -- on August 12 in the 19 afternoon, he sends an e-mail to Mr. Lonewolf and he 20 says that he is reporting that Morton County has 21 arrested and charged the chairman of the Standing Rock 22 Sioux Tribe, David Archambault, Junior, and a Standing 23 Rock Sioux councilman, Dana Yellow Fat. Both of those 24 individuals were arrested and charged with disorderly 25 conduct, and bonded out and released from custody.</p>
<p style="text-align: right;">Page 55</p> <p>1 record at 9:57 a.m.</p> <p>2 MR. SEBY: And is the court reporter 3 present? I can't tell.</p> <p>4 THE VIDEOGRAPHER: Yes.</p> <p>5 Q. (BY MR. SEBY) All right. Great. 6 Mr. Cruzan, we're back after a short break. I'm going 7 to show you exhibits now that I want to put up on the 8 screen and ask you to read them, and then I'm going to 9 ask you some questions about it. All right?</p> <p>10 A. Sure. Absolutely.</p> <p>11 MR. SEBY: So this is -- if we could go, 12 Rachel, please, to the bottom of this e-mail string.</p> <p>13 MR. SCARPATO: Paul, what exhibit is 14 this?</p> <p>15 MR. SEBY: Thanks, Bill. It's 16 Exhibit 739.</p> <p>17 MR. SCARPATO: Thank you.</p> <p>18 (Deposition Exhibit 739 was remotely 19 introduced and provided electronically to the court 20 reporter.)</p> <p>21 Q. (BY MR. SEBY) So, Mr. Cruzan, this is 22 three parts -- four parts of an e-mail that I'm going 23 to talk to you about. It begins with an e-mail from 24 Chad Harmon, acting chief of police, Standing Rock 25 Agency, Fort Yates, North Dakota. That's the Standing</p>	<p style="text-align: right;">Page 57</p> <p>1 And he says that he confirmed that their 2 arrests were from protest activities at the Dakota 3 Access Pipeline protest site located approximately 4 2 1/2 miles north of the Standing Rock Sioux 5 Reservation and off the Standing Rock Sioux 6 Reservation.</p> <p>7 So this is that issue you were telling me 8 about, that the BIA doesn't have jurisdiction in this 9 setting, does it, because it's not on the reservation?</p> <p>10 A. Yes, sir. That's correct. And if I may, 11 the string that you had up prior where it's not so 12 blown up is a little easier for me to read. That one 13 right there.</p> <p>14 Q. Okay.</p> <p>15 A. It's a little easier for me to read.</p> <p>16 Q. You bet. Let's use that format then.</p> <p>17 A. Okay. Perfect. Thank you. Yes. That's 18 correct. That would be outside of the jurisdiction of 19 the Bureau of Indian Affairs.</p> <p>20 Q. Okay. But he's reporting the news 21 regardless; right?</p> <p>22 A. That's correct.</p> <p>23 Q. Okay. And so Mr. Lonewolf then forwards 24 that e-mail to a series of people, not you yet, but 25 it's addressed to DAD O'Neal?</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 58</p> <p>1 A. So Jason O'Neal is the deputy associate 2 director. So his role would have been -- if you'll 3 allow me to sort of explain the structure of the 4 organization. There are -- there were nine districts 5 across the United States. District 1 would have been 6 in Aberdeen, South Dakota; District 2, Oklahoma; 7 District 3, Phoenix. And so -- and I don't remember 8 at this time how they had these divided, but the 9 deputy associate director would have been -- would 10 have been provided oversight of three or four of those 11 districts. I think there were two deputy associate 12 directors.</p> <p>13 So my best estimation here is Jason 14 O'Neal would have been the deputy associate director 15 who would have been the first-line supervisor to the 16 special agent in charge of the -- of the District 1 17 office. So the acting chief would have sent an e-mail 18 to his first-line supervisor, Jeremiah Lonewolf, who 19 then, it looks like, sent that to William McClure, who 20 I think was the -- he may have been out of the office 21 or something. I don't know why. But Jeremiah sent 22 this to his supervisor and his supervisor's 23 supervisor, which would have been Jason O'Neal.</p> <p>24 Q. Okay. And Mr. O'Neal offices in 25 Washington, D.C.; correct?</p>	<p style="text-align: right;">Page 60</p> <p>1 responding to Mr. O'Neal and the gentlemen who are 2 copied there. And the first e-mail from Chad Harmon 3 was on August 12. And here two days later, on Sunday 4 morning, you're sending an e-mail now to the group and 5 you're asking, Is there anything new here?</p> <p>6 So I want to ask you, was this the first 7 time that you were made aware of the protests against 8 the Dakota Access Pipeline in North Dakota?</p> <p>9 A. Again, I don't remember the first time 10 that I heard about this. I thought that it was when I 11 was with the Bureau of Indian Education. That's my 12 first recollection of having any involvement in that 13 at all. I see that that's not the case here.</p> <p>14 I don't remember anything prior to this. 15 Nothing comes to mind. So I just don't know if that's 16 the first I heard anything on this. It's possible 17 that, you know, we knew that the Dakota Access 18 Pipeline was occurring. You know, so we may have had 19 some conversations on it, but in terms of anything 20 that would -- you know, that I would remember hearing, 21 I just don't.</p> <p>22 Q. So you say -- I appreciate you don't 23 remember, but you agree with me that your e-mail says, 24 "Anything new here?" You're asking if there's any 25 developments to something that I believe you already</p>
<p style="text-align: right;">Page 59</p> <p>1 A. You know, that's what it says, yes. 2 That's what it says.</p> <p>3 Q. All right. So Mr. O'Neal then forwarded 4 it on to you. And if we could go up to that e-mail, 5 that would be great. And, Mr. Cruzan, you were 6 confusing me, confusing yourself. And I just want to 7 be clear, you have a signature block here as of 8 August 14, 2016. It says "Darren A. Cruzan, Director 9 Bureau of Indian Affairs Office of Justice Services." 10 Do you see that?</p> <p>11 A. Yes, I definitely do. So I understand 12 what you're saying here. So my recollection of the 13 dates and when I transitioned from one role to the 14 other is just what's blurry, in my opinion. It may be 15 that I hadn't transitioned yet over to the BIE at this 16 point.</p> <p>17 Q. Do you have any reason to think that you 18 were using an inaccurate signature block as of this 19 date?</p> <p>20 A. No. No, of course not.</p> <p>21 Q. Okay. Do we need to spend any more time 22 on that issue?</p> <p>23 A. Not -- I don't, no.</p> <p>24 Q. Okay. All right. So here August 14, 25 it's a Sunday, at 9:46 in the morning. And you are</p>	<p style="text-align: right;">Page 61</p> <p>1 know about; correct?</p> <p>2 A. Well, I don't know. You know, possibly. 3 I also may be asking -- I'm not sure what the dates 4 are on these e-mails. And if it was 9:46 on Sunday, I 5 may have been asking about -- and I don't know when 6 Jason O'Neal sent me that e-mail, if it was Friday or 7 when that was. So I may have been asking, do we know 8 anything new.</p> <p>9 Q. The date, you see it right there and so 10 do I. The date O'Neal sent it to you was Friday. So 11 two days later, you responded.</p> <p>12 A. Yeah. That's -- I don't know. That 13 makes sense to me that I'm asking, based on this 14 e-mail, on Friday is there anything new, because I'm 15 reading this and apparently I had received an e-mail 16 from the assistant secretary about busloads of people 17 possibly heading that way. So I believe I'm asking if 18 there was anything new.</p> <p>19 Q. Is that what ASIA stands for?</p> <p>20 A. Assistant secretary of Indian Affairs. 21 That's correct.</p> <p>22 Q. Okay. And that gentleman's name was 23 what?</p> <p>24 A. I believe that was Larry Roberts at the 25 time.</p>

<p style="text-align: right;">Page 62</p> <p>1 Q. Okay.</p> <p>2 A. They went through a transition as well.</p> <p>3 They're in the H office. So I'm just -- yeah. I'm</p> <p>4 positive that that would have been Larry Roberts.</p> <p>5 Q. Okay. So he's the assistant secretary of</p> <p>6 the Department of the Interior for Indian Affairs?</p> <p>7 A. That's correct.</p> <p>8 Q. Got it. And so I don't have that e-mail</p> <p>9 from Mr. Roberts to you. So I don't know what it</p> <p>10 says, but it says it came to your e-mail. You think</p> <p>11 it came to a personal e-mail or to your BIA?</p> <p>12 A. I didn't have a personal e-mail that any</p> <p>13 e-mails came to me for work-related things. So I can</p> <p>14 only assume that it would have been to my work e-mail.</p> <p>15 Q. And do you recall that e-mail?</p> <p>16 A. I don't. I don't.</p> <p>17 Q. You recount it, though, and say that "I</p> <p>18 understand."</p> <p>19 A. Yeah, absolutely. No. There's no</p> <p>20 question in my mind based on my e-mail here that I had</p> <p>21 received an e-mail from him. I'm just saying I don't</p> <p>22 recall that e-mail.</p> <p>23 Q. Okay. So what were you thinking about</p> <p>24 the situation at this time; do you recall?</p> <p>25 A. I don't. I don't recall this e-mail, but</p>	<p style="text-align: right;">Page 64</p> <p>1 right?</p> <p>2 A. Right.</p> <p>3 Q. Where are they coming from?</p> <p>4 A. I don't -- I have no idea.</p> <p>5 Q. Where are they going?</p> <p>6 A. Well, again, I have no idea. You know, I</p> <p>7 see what you're saying. I probably would have been</p> <p>8 assuming that the protest would have been off the</p> <p>9 reservation, but, you know, in my mind, you know,</p> <p>10 proximity to the reservation with Native Americans --</p> <p>11 reading this I can tell you it would have been on my</p> <p>12 mind that busloads of protesters would have been</p> <p>13 Native American and we would have had to have dealt</p> <p>14 with that on the reservation, whether it be --</p> <p>15 whatever. We needed to be thinking about it.</p> <p>16 (Deposition Exhibit 740 was remotely</p> <p>17 introduced and provided electronically to the court</p> <p>18 reporter.)</p> <p>19 Q. Yes. Okay. So let's go to Exhibit 740.</p> <p>20 And this is an e-mail that Mr. O'Neal replies to your</p> <p>21 "anything new here" e-mail. And so we don't need to</p> <p>22 look at the string that we've already looked at</p> <p>23 because it's behind this e-mail. So I'm asking you to</p> <p>24 look at Mr. O'Neal's here and only that, and then I'd</p> <p>25 like to talk to you about it.</p>
<p style="text-align: right;">Page 63</p> <p>1 I can assume that what my concern was, is busloads of</p> <p>2 people coming that way, you know. And at the time</p> <p>3 early -- now, I'm jumping here a little bit. Maybe I</p> <p>4 shouldn't.</p> <p>5 Q. No, don't because we're talking about</p> <p>6 this e-mail. I'm not asking you to --</p> <p>7 A. Okay. Yeah. I would have been concerned</p> <p>8 if I would have received it. I'm not saying that I</p> <p>9 didn't, but I would have been concerned about busloads</p> <p>10 of people heading, you know, toward the reservation,</p> <p>11 assuming that if the assistant secretary is the one</p> <p>12 telling me that, I'm assuming I was thinking they</p> <p>13 would have been Native Americans, which off the</p> <p>14 reservation would not have been my jurisdiction,</p> <p>15 but...</p> <p>16 Q. In fact, you say, "I understand it's off</p> <p>17 the reservation."</p> <p>18 A. Yes. I understand that the arrest was</p> <p>19 off the reservation, that that's where that occurred.</p> <p>20 Q. You're not talking, sir --</p> <p>21 A. I'm sorry. Go ahead.</p> <p>22 Q. Thank you. You're talking about busloads</p> <p>23 of people headed that way, and "I understand it's off</p> <p>24 the reservation." So we're not talking about the</p> <p>25 arrest. You're talking about busloads of people;</p>	<p style="text-align: right;">Page 65</p> <p>1 A. Okay. Give me one second, then. Okay.</p> <p>2 I've read it through it.</p> <p>3 Q. Thank you. So this looks like to me --</p> <p>4 and you tell me if you agree -- this is an e-mail from</p> <p>5 Mr. O'Neal, same day, same Sunday, August 14, couple</p> <p>6 hours later, and still in the morning to you copied to</p> <p>7 that same group that you were communicating with a</p> <p>8 moment ago, Exhibit 739. And what he says is a</p> <p>9 two-sentence statement and then it looks like he's</p> <p>10 cutting and pasting a report update he received from</p> <p>11 acting police -- acting chief of police at the</p> <p>12 Standing Rock Sioux Tribe, Chad Harmon; right?</p> <p>13 A. Okay.</p> <p>14 Q. You see that?</p> <p>15 A. Well, I mean, I read it. You know, I</p> <p>16 noticed the vehicle slowing, so I know that --</p> <p>17 Q. Let's go down. Let's scroll down so you</p> <p>18 can see it, right there.</p> <p>19 A. Okay.</p> <p>20 Q. Do you want to finish reading the piece</p> <p>21 of the e-mail that carried over on the next page?</p> <p>22 A. Okay.</p> <p>23 Q. You read it?</p> <p>24 A. Yes, I did.</p> <p>25 Q. Okay. So do you agree with me that</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 66</p> <p>1 Mr. O'Neal is cutting and pasting Mr. Harmon -- Acting 2 Chief Harmon's report? 3 A. That's what it looks like to me as well. 4 Q. Okay. So all O'Neal says to you is, 5 "Below is the last update I received," and, "Keep in 6 mind," he says, if we do get a call to assist it would 7 probably be because a state or local officer is facing 8 an immediate threat. 9 A. "Immediate imminent threat." Yes, I see 10 that. 11 Q. "Immediate imminent threat"? 12 A. Right. 13 Q. So you read this report from the acting 14 chief; correct? 15 A. I did read through that, yes. 16 Q. And what it says is that at some day 17 prior, in the afternoon the North Dakota state radio 18 reported that Highway 1806 was blocked at the DAPL 19 protest site located off the Standing Rock Sioux Tribe 20 Reservation and it was blocked by 100 people. And a 21 Lieutenant Eric Peterson from the North Dakota Highway 22 Patrol contacted the Bureau of Indian Affairs Office 23 of Justice Services, Standing Rock agency, and asked 24 if a BIA patrol unit could confirm this because the 25 state highway patrol didn't have anyone available;</p>	<p style="text-align: right;">Page 68</p> <p>1 to me. Yes. 2 Q. Sure. Sure. Okay. And if you come down 3 a little bit towards the bottom of the e-mail, there's 4 a paragraph that says that -- the acting chief of 5 police says, "I also noticed some vehicles that were 6 not part of the protest group with men inside with 7 long range spotting scopes and digital cameras parked 8 on the west side of 1806 watching the protest group." 9 Two vehicles. No. These vehicles were two black SUVs 10 and one white Ford Taurus not affiliated with state 11 law enforcement. Do you know who these people were? 12 A. I don't. 13 Q. The FBI has black SUVs, doesn't it? 14 A. Well, I assume that they do throughout 15 their fleet. 16 Q. And spotting scopes -- use of spotting 17 scopes was not uncommon by the FBI? 18 A. Well -- 19 MR. SCARPATO: Object to foundation. 20 A. I'm sorry. I didn't hear what was said. 21 Q. (BY MR. SEBY) I asked you if you thought 22 that spotting scopes were a common surveillance tool 23 by the FBI? 24 A. I would say spotting scopes are not a 25 common surveillance tool used by FBI. You know,</p>
<p style="text-align: right;">Page 67</p> <p>1 right? 2 A. That's what it looks like to me, yes. 3 Q. So what does that relationship tell you, 4 that the State of North Dakota wants to reach out to 5 the BIA for help? Is that common? Uncommon? 6 A. No. That's very common across Indian 7 country. I would assume that, you know, Standing Rock 8 and the state and the county have a similar 9 relationship. I know that, you know, at Standing Rock 10 at the time -- I don't remember exact numbers, but I 11 think it would be safe to say they probably had, you 12 know, fewer numbers of officers assigned to that 13 agency than needed -- than were needed, so 14 understaffed there. 15 I would assume, sounds like, that North 16 Dakota was the same way. So across Indian country 17 it's good working relationships like that to assist in 18 those kind of situations -- can you look at this for 19 me, can you let me know what you're seeing. I think 20 that would be a fairly common practice. 21 Q. So he's just reporting a cooperative law 22 enforcement effort along with the state law 23 enforcement, correct, with regard to a circumstance 24 blocking a public highway and safety concerns? 25 A. Yeah. That's what it looks like happened</p>	<p style="text-align: right;">Page 69</p> <p>1 you're talking about long-range spotting scopes. I 2 don't know. I mean, I have no -- I don't know. 3 Q. I'm just asking if you know who these 4 people are. 5 A. I absolutely do not know who those people 6 are. 7 Q. Did it strike you as unusual? 8 A. It strikes me as unusual. Absolutely it 9 strikes me as unusual. 10 (Deposition Exhibit 741 was remotely 11 introduced and provided electronically to the court 12 reporter.) 13 Q. Okay. All right. Let's go to 14 Exhibit 741. It's coming up on the screen. So here 15 we are again. We're building on the same e-mail 16 chain. So no need to go back and read the parts that 17 we've talked about that you've already read. 18 So you responded to Mr. O'Neal's e-mail 19 and you -- you're still on Sunday. You're having a 20 busy Sunday on your e-mail. Like an hour and a half 21 later, still midday, early afternoon. And you say, 22 Chairman, FYI, and you're talking to Mr. O'Neal and 23 the other folks that are copied on here, BIA 24 colleagues. And you say simply, "FYI, Chairman 25 Archambault just sent me an e-mail asking for my cell.</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 70</p> <p>1 He and I are fairly close. No idea what he may be 2 wanting to talk about."</p> <p>3 So Chairman Archambault two days prior 4 had just been arrested; right?</p> <p>5 A. Yes.</p> <p>6 Q. And how did you feel about him being 7 arrested?</p> <p>8 A. Indifferent. Honestly, indifferent. I 9 don't give quarter on criminal behavior, you know. So 10 I wouldn't have felt sorry for him if he goes up there 11 and gets himself arrested.</p> <p>12 Q. When you say he and you "are fairly 13 close," how so?</p> <p>14 A. Well, so I'm fairly close with a 15 number -- well, at the time, at the time. In my role 16 I would travel -- I was on the road probably two to 17 three weeks a month traveling around Indian country. 18 So I would say -- you know, I would use that same type 19 of reference to, you know, describe my relationship 20 with many, many tribal leaders across Indian country 21 at the time.</p> <p>22 So, you know, "fairly close" meaning, you 23 know, in Indian country -- and you may or may not get 24 this, but, you know, with the Bureau of Indian 25 Affairs, some tribal leaders don't necessarily have</p>	<p style="text-align: right;">Page 72</p> <p>1 conversations with me.</p> <p>2 Q. So what did you do when he asked you for 3 your cell phone?</p> <p>4 A. I don't remember exactly. I'm sure that 5 I sent him my cell phone and I'm sure that we had a 6 conversation. When I say "sure," you know, I'm almost 7 positive that that's what would have happened. I 8 don't think I wouldn't have sent any tribal leader my 9 cell phone if they asked for it.</p> <p>10 Q. You would have or would not have?</p> <p>11 A. No. I don't believe I would not have 12 sent one to any tribal leader. I believe I would have 13 sent -- if the same request would have come from any 14 tribal leader, I believe that I would have -- as the 15 director of law enforcement for the Bureau of Indian 16 Affairs Office of Justice Services got a tribal leader 17 asking for my number, I'm sure that I would have 18 provided that.</p> <p>19 Q. Okay. All right. So you gave your cell 20 phone number to him and he called you; right?</p> <p>21 A. I don't remember the phone call, but I 22 suspect that he did. I don't really honestly remember 23 if he did or didn't. I assume that he did. And I can 24 assume how that conversation went, but I don't 25 remember specifics of it.</p>
<p style="text-align: right;">Page 71</p> <p>1 the fondest relationship, and in fact, adversarial 2 many times with Bureau of Indian Affairs for a litany 3 of things, they need more officers, whatever. But 4 oftentimes it's not a real friendly relationship.</p> <p>5 There are several who we do have a little 6 closer relationship with that, in my opinion, 7 understand the sort of -- the challenges that I face 8 as the director of Bureau of Indian Affairs and was a 9 little bit more understanding with me when we were 10 able to increase staff and those kind of things.</p> <p>11 So I had met Chairman Archambault 12 probably -- you know, again, I hate to give you dates 13 and time frames, but it was probably -- it was during 14 my time as director of the Bureau of Indian Affairs. 15 And we did a recruitment campaign there at the -- 16 whatever Standing Rock college was there for police 17 officers, correction officers, dispatchers. We were 18 trying to recruit from the community. And he came and 19 introduced himself to me. We talked for a while.</p> <p>20 Then we would see each other at different 21 things. He would come to D.C. and he would schedule a 22 meeting with law enforcement to talk about those kind 23 of things. So when I say "fairly close," I don't mean 24 friends necessarily, but pretty good working 25 relationship with him. I felt like he would have</p>	<p style="text-align: right;">Page 73</p> <p>1 Q. When was the last time you spoke to him 2 prior to this date?</p> <p>3 A. Prior to that date? I wouldn't know.</p> <p>4 Q. Okay. So you assume -- you said you 5 assume you spoke to him and you assume --</p> <p>6 A. I believe that, yes. I don't doubt that 7 we had a conversation. I sent him my number and then 8 we had a conversation. I just don't remember the 9 specifics of it.</p> <p>10 Q. You recall nothing from that 11 conversation?</p> <p>12 A. I don't. I recall nothing from that 13 conversation.</p> <p>14 Q. Okay. He had just been arrested and he 15 was asking to talk to the director of the Bureau of 16 Indian Affairs Office of Justice Services and you 17 don't recall that conversation?</p> <p>18 A. I don't. I don't. We didn't arrest him. 19 And I don't. I mean, I can imagine how that 20 conversation went, but I don't remember any details of 21 it.</p> <p>22 Q. What did he ask you for?</p> <p>23 A. I don't remember any details. 24 (Deposition Exhibit 742 was remotely 25 introduced and provided electronically to the court</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 74</p> <p>1 reporter.)</p> <p>2 Q. Okay. Let's go to Exhibit 742. And this</p> <p>3 is a string -- an e-mail with a string. And let's go</p> <p>4 to the bottom of it because it starts with an e-mail</p> <p>5 from you. And we can't tell in the manner of how this</p> <p>6 was produced to us, but we do know it's from you on</p> <p>7 August 15, 2016, so Monday, the day after the string</p> <p>8 we were just looking at in the evening, early evening.</p> <p>9 And you say "Good evening Jay." That's Jay Lonewolf;</p> <p>10 right?</p> <p>11 A. That would have been Jeremiah Lonewolf,</p> <p>12 the ASAC. That's right. That's correct.</p> <p>13 Q. And you say, "Good evening, Jay. For the</p> <p>14 next few days and until things settle down, can you</p> <p>15 please provide a morning and evening briefing on how</p> <p>16 things are going." You go on to say, "I have the</p> <p>17 Assistant Secretary and BIA Director cc'd as they are</p> <p>18 briefing up to the Secretary's office."</p> <p>19 A. Okay.</p> <p>20 Q. Right?</p> <p>21 A. Yes.</p> <p>22 Q. And so can you elaborate on what the --</p> <p>23 what you're doing here and why?</p> <p>24 A. Yeah. I don't recall this, but I can</p> <p>25 tell you what I'm doing here based on reading it, is</p>	<p style="text-align: right;">Page 76</p> <p>1 assistant secretary, and a number of BIA people copied</p> <p>2 on there up at top. You'll see that. And he says,</p> <p>3 "Good Evening Sir. Reports from the Agency." He's</p> <p>4 referring to Standing Rock; right?</p> <p>5 A. That's correct. Yes.</p> <p>6 Q. It's an interesting e-mail because he</p> <p>7 gives an introductory paragraph about a meeting he had</p> <p>8 with Chairman Archambault and Greta Baker, who is the</p> <p>9 Standing Rock Sioux Tribe internal affairs official.</p> <p>10 He met with those people earlier that afternoon, and</p> <p>11 he reports that Ms. Greta Baker with the tribe was</p> <p>12 setting up a meeting to coordinate efforts regarding</p> <p>13 the Dakota Access Pipeline protests with state law</p> <p>14 enforcement, BIA law enforcement, and tribal programs</p> <p>15 to come up with some sort of strategy for crowd</p> <p>16 management. Is that right?</p> <p>17 A. That's what it looks like to me, yes.</p> <p>18 Q. And then he indents the e-mail body and</p> <p>19 he quotes Ms. Baker saying, quote, This is bigger than</p> <p>20 Standing Rock now -- and, again, that's on</p> <p>21 August 15 -- and it's growing. The Chairman had some</p> <p>22 concerns about non enrolled members attracted by the</p> <p>23 protest and that people (tribal) are scared of the non</p> <p>24 enrolled members staying at the Sacred Stone/Spirit</p> <p>25 Camp and of the large number of people starting to</p>
<p style="text-align: right;">Page 75</p> <p>1 keeping our leadership informed on what's happening</p> <p>2 down there. When I say "down there," there at the</p> <p>3 Standing Rock Sioux Tribe. So what I'm asking for is</p> <p>4 just is there anything new that happens.</p> <p>5 And, again, I'm probably harkening</p> <p>6 back -- and I, again, don't recall what that e-mail</p> <p>7 said, but I saw it here where the assistant secretary</p> <p>8 had told me that busloads of people are coming. So</p> <p>9 probably trying to get as much information on that as</p> <p>10 we can to determine what we need to do --</p> <p>11 Q. Yes.</p> <p>12 A. -- in terms of staff. So then I guess it</p> <p>13 says that I've cced the assistant secretary and the</p> <p>14 BIA director. So probably just looking for ground</p> <p>15 truth from our folks there at the district office as</p> <p>16 to what's occurring.</p> <p>17 Q. Got it. So the e-mail chain goes on and</p> <p>18 it's an e-mail -- a lengthy e-mail from Mr. Lonewolf,</p> <p>19 Jay?</p> <p>20 A. Jeremiah, Jay. That's fine. I know who</p> <p>21 you're talking about.</p> <p>22 Q. Yeah. And that's later that same</p> <p>23 evening, August 15. And he is writing to you and a</p> <p>24 group of people which include Larry Roberts, Lawrence</p> <p>25 Roberts, with the Department of Interior, the</p>	<p style="text-align: right;">Page 77</p> <p>1 camp near the Cannonball River. Right?</p> <p>2 A. Yes, I see that.</p> <p>3 Q. And then it goes on to say, There is now</p> <p>4 a second camp on the north side of the Cannonball</p> <p>5 River, both camp sites, this one -- this new one and</p> <p>6 the Sacred Stone/Spirit Camp are located on Army Corps</p> <p>7 of Engineers land; right?</p> <p>8 A. That's correct.</p> <p>9 Q. Is that consistent with your</p> <p>10 understanding of things?</p> <p>11 A. That is consistent with my understanding</p> <p>12 of the camps, yes.</p> <p>13 Q. Okay. So the part I'd like you to speak</p> <p>14 to is after Ms. Baker says both of those camps are on</p> <p>15 Corps of Engineers property land, she goes on to say,</p> <p>16 "The Sacred Stone/Spirit Camp is located on the south</p> <p>17 side of the Cannonball River," on the Standing Rock</p> <p>18 Reservation.</p> <p>19 A. Let me read this because I want to --</p> <p>20 Q. Please do.</p> <p>21 A. South side, which is the reservation</p> <p>22 side. Okay. I'm with you.</p> <p>23 Q. So is what Mr. Lonewolf who is -- remind</p> <p>24 me who Mr. Lonewolf is. He's the --</p> <p>25 A. He's the assistant special agent in</p>

August 23, 2022

<p style="text-align: right;">Page 78</p> <p>1 charge, right, ASAC.</p> <p>2 Q. He's saying that -- and you said it's</p> <p>3 consistent with your understanding that the south side</p> <p>4 of the Cannonball River includes land that is both</p> <p>5 Corps of Engineers land and tribal land?</p> <p>6 A. Well, so it's my understanding, and that</p> <p>7 had always been my understanding once I got there and</p> <p>8 kind of saw it for myself, that there's a -- where</p> <p>9 the -- and I don't have a map here to point to, but</p> <p>10 where the Cannonball River separates the Army Corps of</p> <p>11 Engineers on the north and on the south, there is a</p> <p>12 strip, a small strip -- and I'll use, you know, very</p> <p>13 standard language in Indian country -- exterior</p> <p>14 boundaries, inside the exterior boundary.</p> <p>15 So on the reservation there is a small</p> <p>16 strip right along the Cannonball River on the</p> <p>17 reservation side. So it's on the reservation, Army</p> <p>18 Corps of Engineers land, where that camp -- one of</p> <p>19 those camps -- and if you say it's Sacred Stone/Spirit</p> <p>20 Camp, I'll believe that. I don't recall a lot of</p> <p>21 names of camps. But there was a camp on that Army</p> <p>22 Corps of Engineers land on the reservation side of the</p> <p>23 Cannonball River.</p> <p>24 Q. So you're saying and what's being said</p> <p>25 here, and you agree, that that strip is both Corps of</p>	<p style="text-align: right;">Page 80</p> <p>1 within the exterior boundaries. My understanding is</p> <p>2 that the Cannonball River was, I guess, the north</p> <p>3 boundary of the Standing Rock Reservation. So it was</p> <p>4 a little confusing, that little piece of land right</p> <p>5 there.</p> <p>6 Q. But the confusion was nonetheless you</p> <p>7 understood that it was BIA jurisdiction at that place?</p> <p>8 A. Well, I don't think that I completely did</p> <p>9 understand that. It was within the boundaries. So if</p> <p>10 there were things that were going on down there that</p> <p>11 needed law enforcement involvement within the</p> <p>12 reservation boundaries, we were prepared to respond</p> <p>13 there because it was within the exterior boundaries.</p> <p>14 But, you know, it was new to me. I had never dealt</p> <p>15 with Army Corps of Engineers land like that before,</p> <p>16 you know, and that sort of set of circumstances.</p> <p>17 We were prepared to respond down there</p> <p>18 into that camp. We chose not to because there was no</p> <p>19 reason to. There was no -- you know, at the time</p> <p>20 there was nothing imminent and kind of dangerous that</p> <p>21 were happening down there. So we chose not to go down</p> <p>22 there, but we were prepared to do that if we needed to</p> <p>23 on the reservation.</p> <p>24 Q. Why did you get prepared?</p> <p>25 A. Well, because there were protesters and</p>
<p style="text-align: right;">Page 79</p> <p>1 Engineers-managed land and part of the Standing Rock</p> <p>2 Sioux Tribe Reservation?</p> <p>3 A. See, that's what I don't know. That</p> <p>4 would take a more intelligent legal position than I</p> <p>5 did. What I can tell you, in talking to the -- to not</p> <p>6 the acting chief of police, but Dave -- his name is</p> <p>7 escaping me right now, is that -- because I asked that</p> <p>8 question when I got there about that piece of land, Do</p> <p>9 we typically patrol down there?</p> <p>10 He told me that there had never been any</p> <p>11 active patrol in that area, that Army Corps of</p> <p>12 Engineers -- and, again, when I say it's a small</p> <p>13 strip, it's pretty narrow and it doesn't go up into</p> <p>14 the reservation community where the community is, the</p> <p>15 Cannonball community, very far, that we, being the</p> <p>16 Bureau of Indian Affairs Office of Justice Services,</p> <p>17 didn't routinely patrol that area unless there was</p> <p>18 some imminent threat of something happening down</p> <p>19 there.</p> <p>20 But as I recall, he couldn't recall ever</p> <p>21 actively patrolling down there. It's not in an area</p> <p>22 where people normally were. You know, it's outside of</p> <p>23 the Cannonball community area. And so I think that it</p> <p>24 was one of those things that we hadn't patrolled and</p> <p>25 frankly didn't know exactly what to do. But it was</p>	<p style="text-align: right;">Page 81</p> <p>1 campers down there. We saw what was happening on the</p> <p>2 other side of the river. And so, you know, any time</p> <p>3 you have a group of people gathered like that were</p> <p>4 there and doing what they were doing, it would be</p> <p>5 silly not to be thinking about some type of emergency.</p> <p>6 Q. Which was what?</p> <p>7 A. They were protesting and, you know,</p> <p>8 illegally camping, I guess, on the Army Corps of</p> <p>9 Engineers land on the north side of the Cannonball</p> <p>10 River. So, you know, we didn't differentiate the</p> <p>11 people that were on that side of the river to that</p> <p>12 side of the river.</p> <p>13 We were -- we had very clear, you know,</p> <p>14 jurisdictional boundaries that we operate on all over</p> <p>15 the United States in Indian country, and that's the</p> <p>16 exterior boundaries -- inside the exterior boundaries.</p> <p>17 So if something were to happen down there, there's</p> <p>18 nobody else going there. I knew that. And so we</p> <p>19 needed to be prepared and we had talked through how we</p> <p>20 might do that.</p> <p>21 Q. But you do understand that you're saying</p> <p>22 that this was overlapping -- apparently overlapping,</p> <p>23 that it's both the Corps of Engineers-managed land and</p> <p>24 inside the exterior boundaries of the Standing Rock</p> <p>25 Sioux Tribe?</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 82</p> <p>1 A. Well, so I do understand that, but no</p> <p>2 other law enforcement agency had any authority besides</p> <p>3 the Bureau of Indian Affairs on that reservation if it</p> <p>4 were Native Americans, you know, that were camping</p> <p>5 there. I don't believe that they were -- it was</p> <p>6 exclusively Native Americans, but I do know that that</p> <p>7 piece of land was within the exterior boundaries of</p> <p>8 the reservation.</p> <p>9 So we didn't actively patrol it, but we</p> <p>10 were prepared if there was a situation down there that</p> <p>11 required an emergency response. That was the extent</p> <p>12 of where we were prepared and thinking about going.</p> <p>13 Q. So if groups of people were to take a bus</p> <p>14 and head into a reservation of a Native American tribe</p> <p>15 in the United States that the BIA administers law</p> <p>16 enforcement on and they were to just set up camp there</p> <p>17 and start, you know, living there, habitating there,</p> <p>18 vehicles, animals, cooking, disposing of waste, all of</p> <p>19 those things, would that bother you elsewhere?</p> <p>20 A. Well, I know what this is going to sound</p> <p>21 like, but it's not my responsibility to be bothered by</p> <p>22 that. You know, we would take our cue on sovereign</p> <p>23 land from the leadership of the tribe.</p> <p>24 Q. Okay.</p> <p>25 A. So --</p>	<p style="text-align: right;">Page 84</p> <p>1 say -- that's not the word I used, but the opinions</p> <p>2 changed. And different people had strong opinions of</p> <p>3 that. So there was never, you know, any clearcut</p> <p>4 guidance on, you know, those camps that were on the</p> <p>5 reservation, what tribal leadership wanted to do with</p> <p>6 that. It was never portrayed to me as very clear.</p> <p>7 So, you know, what we did was try to maintain order.</p> <p>8 And that's what we did.</p> <p>9 Q. I thought you told me that you saw --</p> <p>10 from the State of North Dakota Law Enforcement Center</p> <p>11 with the federal drone footage and the highway patrol</p> <p>12 footage, you saw caravans of people gathering and</p> <p>13 leaving the protest camps; correct?</p> <p>14 A. I remember one time in particular seeing</p> <p>15 a video of a caravan leaving. It was a long line of</p> <p>16 vehicles that stretched way deep into the camp that</p> <p>17 was on the north side of the Cannonball River. And,</p> <p>18 you know, even as they were pouring out onto highway</p> <p>19 whatever that was, whatever it was, a big long line of</p> <p>20 vehicles in that camp, that's the one time that I can</p> <p>21 recall seeing aerial footage of a caravan leave.</p> <p>22 (Deposition Exhibit 743 was remotely</p> <p>23 introduced and provided electronically to the court</p> <p>24 reporter.)</p> <p>25 Q. Okay. All right. Let's go to</p>
<p style="text-align: right;">Page 83</p> <p>1 Q. So did they ask you, Don't pay any</p> <p>2 attention to those people camping there?</p> <p>3 A. You know, that conversation happened, but</p> <p>4 it happened in a lot of different ways. There were</p> <p>5 some that really wanted us to move those folks along.</p> <p>6 There were some that didn't want us to move them</p> <p>7 along. And even with Dave Archambault, that</p> <p>8 conversation changed several times during the -- I'm</p> <p>9 talking about within the boundaries of the</p> <p>10 reservation, the people that were camping there.</p> <p>11 Q. That's all I'm talking about, just that.</p> <p>12 A. If I could finish. It was the -- you</p> <p>13 know, not only in that area, not only on that Army</p> <p>14 Corps of Engineers land, but at the casino, at the gas</p> <p>15 stations, at the grocery stores, in communities. So</p> <p>16 it was never -- I never felt from tribal leadership</p> <p>17 that there was ever one clear, concise direction that</p> <p>18 their leadership wanted to go. When I say</p> <p>19 "leadership," I'm talking about certainly Chairman</p> <p>20 Archambault and, you know, members of the general</p> <p>21 council, which are the, you know, elected body there</p> <p>22 and speak for the tribes.</p> <p>23 Q. So you said that they flip-flopped in</p> <p>24 their position; right?</p> <p>25 A. I didn't say they flip-flopped, but I</p>	<p style="text-align: right;">Page 85</p> <p>1 Exhibit 743. So here is a -- it's again that same</p> <p>2 e-mail string in the prior -- the just prior exhibit,</p> <p>3 742. I just -- I only want to ask you about -- I only</p> <p>4 want to ask you about Mr. Lonewolf's response to you.</p> <p>5 A. Okay.</p> <p>6 Q. He says again --</p> <p>7 A. Just so you know, that screen is the</p> <p>8 least helpful to me right there. If you could go back</p> <p>9 to the smaller. That screen right there is what I can</p> <p>10 see the best.</p> <p>11 Q. So, again, this e-mail is from Jay,</p> <p>12 Jeremiah, Lonewolf on August 15 in the evening now.</p> <p>13 It's entitled "SRST updates." Mr. Lonewolf says,</p> <p>14 "Right now, I think it would be wise to identify</p> <p>15 possible officers to deploy. We are looking at</p> <p>16 identifying officers within the District to deploy if</p> <p>17 necessary as a contingency."</p> <p>18 What's he reacting to, talking about the</p> <p>19 need for contingency planning with law enforcement</p> <p>20 resources from the Bureau of Indian Affairs?</p> <p>21 A. Well, I, again, don't remember the exact</p> <p>22 details of this, but I think what I was asking is, you</p> <p>23 know, in essence, do we have enough officers to meet</p> <p>24 the demand of the influx of people that you're seeing</p> <p>25 or not seeing. Do we have enough officers there. And</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 86</p> <p>1 he's responding, I think it would be wise to deploy 2 officers.</p> <p>3 So, you know, as I mentioned earlier 4 today, one of the things that we did, and I'm assuming 5 they still do across the country, is when there are 6 events -- you know, large powwows or anything like 7 that, we'll detail officers from other reservations. 8 So when he says "deploy," he's really referring to 9 asking for assistance from other -- at this point in 10 time only Bureau of Indian Affairs personnel.</p> <p>11 Q. Okay. He goes on to say at the bottom of 12 that e-mail, "I have the command center ready to move 13 into Fort Yates if needed." So he's talking about 14 moving it into the reservation; right?</p> <p>15 A. Well, so the command center, it's a 16 unified command vehicle. So think of it in terms of, 17 like, a bus that has, you know, panels that can extend 18 out and radio systems, things like that that can be 19 forward deployed to areas so as not to overburden a 20 police department.</p> <p>21 So in this instance, so as not to 22 overburden the dispatch center at Standing Rock Sioux 23 Tribe, calls for service that are coming in -- and 24 keep in mind, we still had a very, very large 25 residential population on the reservation to service</p>	<p style="text-align: right;">Page 88</p> <p>1 Fort Yates, Standing Rock Sioux Tribe Reservation?</p> <p>2 A. Yeah, it was. And I think it was the 3 one -- I know it was because I remember the individual 4 that brought it up. It was brought out of Oklahoma -- 5 out of our Oklahoma District 2. They brought their 6 unified command vehicle. It was a little bit bigger 7 and had more capabilities, more radios, little more 8 space in it. We brought that one and parked it 9 initially at the casino parking lot. And then I think 10 we may have moved it once or twice somewhere on the 11 reservation.</p> <p>12 Q. You brought it up when?</p> <p>13 A. Goodness. I was there when it arrived. 14 So sometime after I got there, if you know the date 15 when I got there, it would have been sometime after 16 that.</p> <p>17 Q. I'm asking you what that date was.</p> <p>18 A. I don't know.</p> <p>19 Q. And it was brought up because the 20 Department of Interior dispatched law enforcement to 21 help you?</p> <p>22 A. I don't think it was brought up at that 23 time. I think it was brought up before that. And 24 that was a BIA OJS resource. So those unified 25 commands are things that we had. And I think each</p>
<p style="text-align: right;">Page 87</p> <p>1 and provide law enforcement response to. And so the 2 mobile -- what's he call it? The command center would 3 have been our mobile command center or our mobile 4 unified command. And I think at the time we did store 5 it in South Dakota at the district office. So that's 6 what he's talking about there.</p> <p>7 Q. So when you say "mobile unified command," 8 "unified," what does that refer to?</p> <p>9 A. Well, that's what we call it. So it's -- 10 for instance, ultimately this did happen where we 11 requested assistance from our sister organizations 12 within the Department of Interior. We also brung 13 folks with our land mobile radio. So if a unified 14 command vehicle or the mobile command unit comes into 15 an area, we also deploy BIA land mobile radio 16 personnel with it.</p> <p>17 So if we get National Park Service or 18 U.S. Park Police or, gosh, even, you know, BIA 19 officers from different districts that don't have, you 20 know, the district channels programmed into their 21 radios, they can put those together. So it's really 22 just a kind of -- you know, it's more of a name than 23 anything else. But that's what it is. It's a mobile 24 command, unified command of some sort.</p> <p>25 Q. I understand. So was it ever brought to</p>	<p style="text-align: right;">Page 89</p> <p>1 district had a smaller version of the larger one that 2 was in Oklahoma.</p> <p>3 So that was probably brought up just 4 because, again, we didn't want to overburden the 5 Standing Rock Sioux dispatch center. I think we 6 brought dispatchers as well to sit in there to the 7 dispatch specifically for the detail officers that we 8 had brought in.</p> <p>9 Q. And you chose to use and assign the 10 larger unified command mobile vehicle from Oklahoma, 11 which was larger than the one that resided nearby in 12 Aberdeen, South Dakota. You called up instead the 13 bigger one because it was a bigger deal and you had 14 additional dispatchers to help the unified --</p> <p>15 A. Yeah. I think more capabilities in that 16 larger vehicle, more space. You know, in the back of 17 there, there was meeting space. And, yeah, in front 18 there were two or three more areas for --</p> <p>19 Q. Yes.</p> <p>20 A. -- dispatch. I'm sorry. I live right 21 here. I don't know if you can hear that. It will 22 pass. I apologize for that.</p> <p>23 Q. Your voice is now becoming strained and 24 unintelligible. Do you need --</p> <p>25 A. Yeah. If you can bear with me just --</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 90</p> <p>1 MR. SEBY: Let's go off the record, 2 please. 3 THE VIDEOGRAPHER: We are off the record 4 at 10:50 a.m. 5 (Recess taken, 10:50 a.m. to 11:02 a.m.) 6 THE VIDEOGRAPHER: We are back on the 7 record at 11:02 a.m. 8 (Deposition Exhibit 745 was remotely 9 introduced and provided electronically to the court 10 reporter.) 11 Q. (BY MR. SEBY) So let's go to Exhibit 745, 12 please. And this is an e-mail chain, you conversing 13 with Mr. Lonewolf some more and Jason Thomas. I don't 14 want to ask you about the chain of e-mails. I just 15 want to ask you about your e-mail at the top. 16 A. Okay. Could you just refresh my memory 17 what is below there? 18 Q. You can skim it, if you'd like. That's 19 not being concealed from you. 20 A. I know. I just can't see it. I just 21 want to -- 22 Q. It has nothing to do with the question 23 about -- 24 A. Okay. I'm familiar with what it's 25 attached to.</p>	<p style="text-align: right;">Page 92</p> <p>1 during the DAPL event? 2 A. Not that I can recall at all. I think 3 talking to the secretary, I would recall that, but I 4 don't recall having any conversations with her at all. 5 Q. So what are you doing here with this 6 communication? You're giving them the e-mail string 7 below for what purpose? 8 A. For briefing purposes. Apparently it's 9 the most updated information that we would have had, I 10 guess. So they would be prepared to brief. 11 Q. You're supporting them for briefing the 12 secretary? 13 A. Yes. 14 Q. Okay. So the secretary of the Interior 15 was monitoring events as of August 15, 2016? 16 A. Yeah. I assume that's right. I mean, I 17 am providing them information and I must have been 18 aware that they were briefing her. 19 Q. Apparently, right. Why was she -- why 20 did she care to spend any time on August 15, 2016, 21 about this time? Why was she aware of -- or kept 22 aware of and briefed, updated, apprised, whatever as 23 of this date; do you know? 24 A. I don't know what would have made 25 anything extra special. I'm not sure it was extra</p>
<p style="text-align: right;">Page 91</p> <p>1 Q. Okay. 2 A. I'm good. Thank you. 3 Q. So up at the top you are communicating 4 with -- again, this is Monday, August 15 in the 5 evening. And you write, "Larry/Mike, here is just a 6 little more for your call in the morning. We probably 7 won't have new information prior to the call with the 8 Secretary." 9 A. Okay. 10 Q. So Lawrence Roberts, Larry Roberts, 11 again, that's the assistant secretary of the Interior 12 for Indian Affairs; is that correct? 13 A. That's correct. 14 Q. And who is the Mike that you're referring 15 to? 16 A. So Mike Black is the director of the 17 Bureau of Indian Affairs and would have been my 18 first-line supervisor. 19 Q. Okay. Got it. So you're talking about a 20 call with the secretary. Were you a participant in 21 that call? 22 A. I was not, no. I never had any 23 conversations with the secretary until after I was 24 back and the event was over. 25 Q. You never talked to Secretary Jewell</p>	<p style="text-align: right;">Page 93</p> <p>1 special. I thought we had talked about information 2 that had been earlier, as we spoke here today, that I 3 was providing them information and updated 4 information. I was aware that they were speaking with 5 the secretary. That is how that works, is keeping 6 your supervisors apprised of what's going on in your 7 organization. 8 So my assumption is that this was a 9 standard kind of a thing. I don't recall if it was 10 something that, you know, we provided, I provided. 11 It's not uncommon for me, I will assure you -- for me 12 to keep my supervisors informed of what's going on. I 13 make an assumption that they had a regular meeting 14 with her, but I don't know. I wasn't part of any. 15 (Deposition Exhibit 746 was remotely 16 introduced and provided electronically to the court 17 reporter.) 18 Q. Okay. So let's go to Exhibit 746, 19 please. So same thing. There's this same e-mail 20 string that you're engaging with. I'm not going to 21 ask you about that. I'm going to ask you about the 22 e-mail at the very top from Tim Lynn, Department of 23 Interior. Who is Mr. Lynn? 24 A. So Tim Lynn was the director of law 25 enforcement for the Department of Interior Office of</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 94</p> <p>1 Law Enforcement and Security. It was a position that</p> <p>2 I eventually moved into, as we talked about earlier</p> <p>3 this morning.</p> <p>4 Q. Okay. Got it.</p> <p>5 A. So that dotted line to the bureau</p> <p>6 directors.</p> <p>7 Q. I understand. So you're telling him --</p> <p>8 or he's telling you, "Darren, don't hesitate to ask</p> <p>9 for assistance from other DOI law enforcement</p> <p>10 resources if you feel you're going to need them";</p> <p>11 right?</p> <p>12 A. That's right.</p> <p>13 Q. So this guy, the director of law</p> <p>14 enforcement for the entire Department of Interior, was</p> <p>15 offering you the ability to ask for it; right?</p> <p>16 A. Well, that's correct. And this was not</p> <p>17 an uncommon thing at all. You know, I can go back to</p> <p>18 2010 right before I got there. And as I was there, we</p> <p>19 had a high-priority performance goal initiative where</p> <p>20 we were trying to reduce violent crime at four</p> <p>21 locations. And in order to get our staffing up to the</p> <p>22 correct levels, we asked our sister agencies within</p> <p>23 the department if they could send us detail officers</p> <p>24 to assist us to get our staffing levels to the level</p> <p>25 that it should be.</p>	<p style="text-align: right;">Page 96</p> <p>1 resources.</p> <p>2 Q. From within the Department of Interior?</p> <p>3 A. From within the Department of Interior,</p> <p>4 that's correct. Yeah.</p> <p>5 Q. And you received it; correct?</p> <p>6 A. I did, yes.</p> <p>7 Q. Did you receive less or more than you</p> <p>8 asked for?</p> <p>9 A. Gosh, I think I received what I asked</p> <p>10 for. I don't remember. I don't remember specifically</p> <p>11 requesting a number.</p> <p>12 (Deposition Exhibit 747 was remotely</p> <p>13 introduced and provided electronically to the court</p> <p>14 reporter.)</p> <p>15 Q. Okay. I get it. Thank you. 747,</p> <p>16 please. So this is an e-mail that is an e-mail from</p> <p>17 you at the top there on Wednesday, October 17, 2016,</p> <p>18 so just a few days after the e-mails we've been</p> <p>19 discussing. And the attachment here is the "SRA</p> <p>20 maps." What does SRA maps mean?</p> <p>21 A. Gosh. I don't know.</p> <p>22 Q. Okay.</p> <p>23 A. Standing Rock. I don't know. I'm not</p> <p>24 sure.</p> <p>25 Q. Okay. It goes on to say "Dakota Access</p>
<p style="text-align: right;">Page 95</p> <p>1 So, you know, sharing officers within the</p> <p>2 Department of Interior was not uncommon. I don't</p> <p>3 remember ever sending BIA officers to other locations,</p> <p>4 but it's not uncommon for the sister DOI agencies to</p> <p>5 assist the BIA when we needed -- when we were short</p> <p>6 staffed or needed a hand.</p> <p>7 Q. And, in fact, at some point you decided</p> <p>8 it was needed and you asked for it; right?</p> <p>9 A. That's correct. Yes.</p> <p>10 Q. So when was that?</p> <p>11 A. Well, I would have been there at that</p> <p>12 point. So whenever that was. And, again, I don't</p> <p>13 remember specifically. I'm sure that there's a</p> <p>14 document there that --</p> <p>15 Q. I don't have one. That's why I'm asking</p> <p>16 you.</p> <p>17 A. I'm just saying I'm sure somewhere</p> <p>18 there's a document that shows us requesting additional</p> <p>19 officers to assist. That would have been after my</p> <p>20 arriving there. And, you know, I would say -- I don't</p> <p>21 know -- maybe halfway to the end of the event, I</p> <p>22 suppose. I just don't remember the date. I don't</p> <p>23 know.</p> <p>24 Q. Let's go to --</p> <p>25 A. But I definitely did ask for additional</p>	<p style="text-align: right;">Page 97</p> <p>1 Protest - Camp Sites." We're going to look at the</p> <p>2 attachment here in a moment, but this information that</p> <p>3 you are reporting to this group, which includes a</p> <p>4 large number of BIA individuals and Tim Lynn at the</p> <p>5 Department of Interior, the head of the law</p> <p>6 enforcement services group, and Department of Interior</p> <p>7 watch office. What's the watch office?</p> <p>8 A. So the watch office is a component of the</p> <p>9 Department of Interior Office of Law Enforcement and</p> <p>10 Security. I actually don't have that right. It is</p> <p>11 actually part of the Department of Interior Emergency</p> <p>12 Management Office, or it was at the time. It was at</p> <p>13 the time. I don't know if that's changed.</p> <p>14 And it was a 24-hour office that really</p> <p>15 was a clearinghouse for any information of</p> <p>16 significance that was, you know, happening within or</p> <p>17 around Department of Interior resources or things that</p> <p>18 could have impact, weather even included. But that</p> <p>19 was a component of the Department of Interior. So the</p> <p>20 watch office was just something that compiled reports</p> <p>21 and things like that for briefing.</p> <p>22 Q. I understand. So you are communicating</p> <p>23 with those folks and a bunch of other senior managers</p> <p>24 and others in the Department of Interior, including</p> <p>25 the assistant secretary for Indian Affairs, Larry</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 98</p> <p>1 Roberts. He's there in the distribution. And you're</p> <p>2 reporting that BIA District 1 and Standing Rock agency</p> <p>3 met with tribal leadership that morning.</p> <p>4 A. Where are we looking at?</p> <p>5 Q. Right there in the e-mail.</p> <p>6 A. Okay. All right.</p> <p>7 Q. Do you remember that?</p> <p>8 A. I don't remember that, but I see it.</p> <p>9 Q. Do you have any reason to think your</p> <p>10 e-mail is wrong?</p> <p>11 A. No.</p> <p>12 Q. So you are reporting to the group --</p> <p>13 you're talking about a number of things. You're</p> <p>14 reporting that the BIA estimated size of the protests</p> <p>15 was 3 to 350 people. Are you referring to the protest</p> <p>16 camps located on the reservation?</p> <p>17 A. I don't know what I'm referring to there.</p> <p>18 Q. Earlier I thought you told me BIA</p> <p>19 estimated people in camps, population numbers on the</p> <p>20 reservation?</p> <p>21 A. Yeah. I'm just trying to see -- I'm</p> <p>22 reading above that just to make sure. That's probably</p> <p>23 what I'm talking about. That seems like the right</p> <p>24 numbers. And then the next sentence, Earlier reports</p> <p>25 by Morton County was much higher. So, you know, right</p>	<p style="text-align: right;">Page 100</p> <p>1 lack of control.</p> <p>2 Q. By them; right?</p> <p>3 A. By campsites and tribes or tribes</p> <p>4 occupying the sites.</p> <p>5 Q. Correct. And then a "lack of</p> <p>6 communication with outside entities by the tribe, lack</p> <p>7 of leadership within the camps," plural; right?</p> <p>8 A. That's what I'm seeing, yes.</p> <p>9 Q. Speeding in communities, weapons, drugs,</p> <p>10 non-Indians and nonmembers. So not tribal-affiliated</p> <p>11 people; correct?</p> <p>12 A. Right.</p> <p>13 Q. In fact, most of these people weren't</p> <p>14 even North Dakotans, were they?</p> <p>15 A. That was certainly my uneducated opinion</p> <p>16 of it. I mean, you know, it certainly appeared to me</p> <p>17 that the incident started out as a Native American,</p> <p>18 you know -- that was what I saw and that the whole</p> <p>19 thing pretty quickly turned into people coming from</p> <p>20 all over. So it's my opinion. I don't know that to</p> <p>21 be accurate, but certainly my opinion that most people</p> <p>22 were from somewhere else.</p> <p>23 Q. I understand. Thank you. So let's go to</p> <p>24 the attachment.</p> <p>25 A. Can I go back to this just -- I want to</p>
<p style="text-align: right;">Page 99</p> <p>1 there that's probably the population on the</p> <p>2 reservation that I'm referring to, since I'm mostly</p> <p>3 talking about reservation information.</p> <p>4 And, again, you know, although the events</p> <p>5 happening outside the reservation were impactful and</p> <p>6 concerning to me, it's not something I had any, you</p> <p>7 know, authority or jurisdiction over. So I'm probably</p> <p>8 talking right here strictly about what's happening</p> <p>9 within the boundaries of the reservation.</p> <p>10 Q. Then you're reporting further about the</p> <p>11 meeting that you noted that you didn't say was not</p> <p>12 accurately stated, but you say "some of the tribe's</p> <p>13 concerns are," bullet one, lack of control of the camp</p> <p>14 sites, plural, by the tribe or tribes occupying the</p> <p>15 sites. That's -- again, that's as of August 17, 2016,</p> <p>16 you're saying to the assistant secretary of the</p> <p>17 Interior that there's -- the tribe lacks control of</p> <p>18 the campsites or tribes occupying the sites. You use</p> <p>19 the word in the plural, don't you?</p> <p>20 A. Well, what I said there is some of the</p> <p>21 tribe's concerns. And these were the concerns that</p> <p>22 they must have brought up with that meeting between</p> <p>23 the BIA and tribal leadership.</p> <p>24 Q. Yeah.</p> <p>25 A. They're their concerns that there was</p>	<p style="text-align: right;">Page 101</p> <p>1 clarify that these were not -- I'm not saying these</p> <p>2 were my concerns. I was passing on -- or whomever, we</p> <p>3 were passing information on what the tribes were</p> <p>4 concerned about.</p> <p>5 Q. Yeah. You were letting the assistant</p> <p>6 secretary of the Department of Interior know that the</p> <p>7 tribe told you in a meeting that there's a lack of</p> <p>8 control of the campsite by the tribe or the tribes</p> <p>9 occupying the sites and their lack of leadership in</p> <p>10 those same camps, and there's weapons and drugs and</p> <p>11 non-Native Americans present; correct?</p> <p>12 A. Right. That's what I said that their</p> <p>13 concerns were, yes.</p> <p>14 Q. So we're not disagreeing about what the</p> <p>15 e-mail says. So we can move on to the attachment,</p> <p>16 which is a map. Do you see that?</p> <p>17 A. I do, yes, sir.</p> <p>18 Q. Do you need that enlarged at all?</p> <p>19 A. Just depends how granular we're going.</p> <p>20 That's good. I can see that well.</p> <p>21 Q. Excellent. So do you see -- this is an</p> <p>22 e-mail that you sent and an attachment that you</p> <p>23 attached to it. And so let's just look at a couple of</p> <p>24 things in there. The yellow line is a line that you</p> <p>25 are purporting to show what, the exterior boundary of</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 102</p> <p>1 the Standing Rock Sioux Tribe Reservation?</p> <p>2 A. I guess that's what I'm trying to show.</p> <p>3 You know, I'm not completely familiar with that. So I</p> <p>4 don't think I would have drawn that. I would have</p> <p>5 presented that, but that's what it looks like to me on</p> <p>6 the North and South Dakota sides of the states, the</p> <p>7 boundaries of the reservation, or a general depiction</p> <p>8 of what the boundaries are, yes.</p> <p>9 Q. And like you said, there's -- the</p> <p>10 reservation straddles both the state of South Dakota</p> <p>11 and the state of North Dakota; correct?</p> <p>12 A. Correct.</p> <p>13 Q. And then if you look on the South --</p> <p>14 pardon me -- the North Dakota side, this document that</p> <p>15 you presented to the assistant secretary of the</p> <p>16 Interior and a large number of BIA and DOI people, in</p> <p>17 fact it shows that the boundary of the reservation is</p> <p>18 the Cannonball River to the north; correct?</p> <p>19 A. Can you point to where you're referring</p> <p>20 to?</p> <p>21 Q. I don't have a pointer, but if you look</p> <p>22 at the very top, there is the word "Cannonball." Do</p> <p>23 you see that?</p> <p>24 A. I do see that, yes.</p> <p>25 Q. So while we're looking there, you can see</p>	<p style="text-align: right;">Page 104</p> <p>1 A. Okay.</p> <p>2 Q. This is that same e-mail where you're</p> <p>3 briefing people about the tribe's concerns that we</p> <p>4 just talked about on August 17, 2016. One of the</p> <p>5 people that was copied in your e-mail on that date is</p> <p>6 a fellow named Harry Humbert. Do you know who</p> <p>7 Mr. Humbert is?</p> <p>8 A. I do know who Harry Humbert is, yes.</p> <p>9 Q. Will you explain to me who he is?</p> <p>10 A. Yeah. At that time Harry would have been</p> <p>11 the deputy assistant secretary for -- gosh. So I</p> <p>12 don't remember the exact acronym, but he was -- his</p> <p>13 portfolio included law enforcement for the department,</p> <p>14 emergency management to include the watch office that</p> <p>15 we talked about.</p> <p>16 Q. You're talking about within the</p> <p>17 Department of Interior; correct?</p> <p>18 A. Department of Interior, yes. Aviation</p> <p>19 and wildland fires. So Harry previously was the</p> <p>20 director of law enforcement, the position that Tim</p> <p>21 Lynn was in at the time. So in hierarchy and how that</p> <p>22 chain of command went, Tim Lynn, who was the director</p> <p>23 of law enforcement for DOI OLES, or the Office of Law</p> <p>24 Enforcement Security, reported directly to Harry</p> <p>25 Humbert, who was the deputy assistant secretary.</p>
<p style="text-align: right;">Page 103</p> <p>1 a river that is going there. Do you see that? It's a</p> <p>2 meandering river?</p> <p>3 A. I do.</p> <p>4 Q. What's that geographic location?</p> <p>5 A. Well, it's in North Dakota.</p> <p>6 Q. I'm asking about the geographic feature</p> <p>7 of the northern boundary right next to the word</p> <p>8 "Cannonball."</p> <p>9 A. Well, I'm not following your question. I</p> <p>10 don't know what you're asking.</p> <p>11 Q. Do you disagree that that's not the</p> <p>12 Cannonball River?</p> <p>13 MR. SCARPATO: Objection; vague.</p> <p>14 A. Yeah. I mean, I'm not -- I don't know.</p> <p>15 If this was something I had provided, it was general</p> <p>16 to provide the boundaries of the reservation. It's</p> <p>17 certainly not intended to be exact. And I don't -- I</p> <p>18 don't know where -- I'm not familiar enough with the</p> <p>19 geography of North Dakota to be able to answer that</p> <p>20 question fairly.</p> <p>21 (Deposition Exhibit 748 was remotely</p> <p>22 introduced and provided electronically to the court</p> <p>23 reporter.)</p> <p>24 Q. (BY MR. SEBY) Okay. So let's go to</p> <p>25 Exhibit 748. Okay?</p>	<p style="text-align: right;">Page 105</p> <p>1 Q. Okay. So Mr. Humbert writes back to you,</p> <p>2 still on August -- pardon me. This is on August 18</p> <p>3 now when he responds to your e-mail from the prior</p> <p>4 day. He thanks you for the update, things are busy.</p> <p>5 "After consideration, I am going to have Jim Gallagher</p> <p>6 come out." Who is Jim Gallagher?</p> <p>7 A. So Jim Gallagher was -- I think his title</p> <p>8 was assistant director of DOI OLES. So he would have</p> <p>9 worked for Tim Lynn.</p> <p>10 Q. Okay. Lots of Department of Interior</p> <p>11 folks, huh?</p> <p>12 A. Well, I mean, all pretty law</p> <p>13 enforcement-centric. So, I mean, that's part of our</p> <p>14 nature, is communicating those kind of things with our</p> <p>15 law enforcement folks. So everybody that, you know,</p> <p>16 we're talking about right there -- Harry Humbert, Jim</p> <p>17 Gallagher, Tim Lynn -- were all DOI OLES or above</p> <p>18 that. Harry was the deputy assistant secretary.</p> <p>19 Q. Got it. So he's telling you how he's</p> <p>20 going to dispatch Mr. Gallagher to North Dakota and</p> <p>21 his role -- I'm quoting Mr. Humbert. "His role will</p> <p>22 be strictly to relate information back here to me so</p> <p>23 that I can inform Department Senior Leadership on</p> <p>24 activity on a real time basis in the event something</p> <p>25 breaks." And he puts that in bold and he underlines</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 106</p> <p>1 it. So he really means it, doesn't he?</p> <p>2 A. Well, I can only assume that. He wanted</p> <p>3 me to make sure I saw that.</p> <p>4 Q. So he was directing you -- taking</p> <p>5 something off your plate, it sounds like, and defining</p> <p>6 the allocation of Department of Interior resources;</p> <p>7 correct?</p> <p>8 A. Well, maybe. You know, as I had</p> <p>9 mentioned earlier when you had asked me about</p> <p>10 attending the Morton County daily meetings or</p> <p>11 every-other-day meetings, that Jim would have been one</p> <p>12 of those that attended those with me.</p> <p>13 Q. So Jim Gallagher from the Department of</p> <p>14 Interior was dispatched to join you in the North</p> <p>15 Dakota Law Enforcement Centers and briefings?</p> <p>16 A. Well, I don't know if it was for that</p> <p>17 reason. I think it was really to provide -- Jim</p> <p>18 stayed right with me. You know, everywhere I went he</p> <p>19 was there and assisted, did some, you know, just</p> <p>20 second looks at things to assist and...</p> <p>21 Q. But Mr. Humbert is saying here in bold</p> <p>22 and underlined, "His role will be strictly to relate</p> <p>23 information back here to me." So he's telling you</p> <p>24 that's what this new guy is going to do.</p> <p>25 A. Okay.</p>	<p style="text-align: right;">Page 108</p> <p>1 States resides, yes.</p> <p>2 (Deposition Exhibit 749 was remotely</p> <p>3 introduced and provided electronically to the court</p> <p>4 reporter.)</p> <p>5 Q. All right. Those would also be folks</p> <p>6 back here in the Washington, D.C., reference, I think.</p> <p>7 749, please. So this is a really interesting e-mail,</p> <p>8 and it's got a bunch of title status reports attached</p> <p>9 to it. We are not going to read those. They speak</p> <p>10 for themselves. I'm not going to ask you about them.</p> <p>11 What I do want to ask you about is the</p> <p>12 e-mail that passes them along. And they were sent to</p> <p>13 a group starting with the gentleman who was providing</p> <p>14 them, Harold Molash with the BIA. And the subject of</p> <p>15 his e-mail at the very bottom of this before the</p> <p>16 attachments start, if we can go down there --</p> <p>17 Mr. Molash is a realty specialist, Standing Rock</p> <p>18 Agency. So he's not just BIA. He's on site at</p> <p>19 Standing Rock; right?</p> <p>20 A. I'm not familiar with Harold Molash.</p> <p>21 Q. Are we debating his signature block? I</p> <p>22 mean, that's what it says.</p> <p>23 A. No, but you asked me. So I'm just not</p> <p>24 familiar with him. I don't know. We're not disputing</p> <p>25 that with what it says, but I don't know him.</p>
<p style="text-align: right;">Page 107</p> <p>1 Q. Right?</p> <p>2 A. Okay.</p> <p>3 Q. Are we debating that or do you agree?</p> <p>4 A. I'm certainly not debating that with you,</p> <p>5 no.</p> <p>6 Q. So that's an order from the Department of</p> <p>7 Interior, at least that's Mr. Humbert's affiliated</p> <p>8 title, is with the Department of Interior.</p> <p>9 A. He is, that's correct. Yes.</p> <p>10 Q. And he goes on in this third paragraph of</p> <p>11 his e-mail, "You have a law enforcement operation and</p> <p>12 issues on the reservation to address and what you</p> <p>13 don't need is to be addressing those issues while</p> <p>14 simultaneously trying to keep folks back here</p> <p>15 informed. With all of the media interest coming to</p> <p>16 bear on this, the Governors Office being in direct</p> <p>17 connection with the Secretary" -- he's talking about</p> <p>18 the secretary of the Interior, Sally Jewell; right?</p> <p>19 A. I can only assume that that's what he</p> <p>20 means by that.</p> <p>21 Q. Then he goes on to say, "Not to mention</p> <p>22 the White House interest in this," talking about the</p> <p>23 White House where the President of the United States</p> <p>24 resides; correct?</p> <p>25 A. That is where the President of the United</p>	<p style="text-align: right;">Page 109</p> <p>1 Q. So we can stipulate he's at the Standing</p> <p>2 Rock Sioux Tribe and his title is realty specialist.</p> <p>3 What does the BIA realty specialist do generally when</p> <p>4 staffed at a particular reservation?</p> <p>5 A. Well, I think --</p> <p>6 MR. SCARPATO: Objection; misstates.</p> <p>7 Q. (BY MR. SEBY) Sir?</p> <p>8 A. So I don't really know. That is a</p> <p>9 different side of the house, but I will tell you what</p> <p>10 I have used them for in the past in other locations is</p> <p>11 to -- in criminal investigations to certify, if you</p> <p>12 will -- probably not the right word, but to land</p> <p>13 status that it is indeed Indian country for purposes</p> <p>14 of prosecution, that a crime occurred, that it was</p> <p>15 Native American, and that it was -- it occurred on</p> <p>16 Indian land. That's what I've used Indian realty</p> <p>17 specialists in the past in other districts before.</p> <p>18 Other than that, I really couldn't tell you.</p> <p>19 Q. Okay. Earlier we were -- you were not</p> <p>20 sure what the acronym SRA meant?</p> <p>21 A. Correct.</p> <p>22 Q. Molash's signature block, it looks like</p> <p>23 it means Standing Rock Agency?</p> <p>24 A. Yeah. Makes perfect sense. That is, I'm</p> <p>25 sure, what that means.</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 110</p> <p>1 Q. Okay. So on August 18 Mr. Molash, the</p> <p>2 realty specialist with the Standing Rock Agency, sends</p> <p>3 an e-mail and it says, "FYI: Here is the information</p> <p>4 that was requested, including the TSR's." What's a</p> <p>5 TSR?</p> <p>6 A. I don't know. Sorry. I'm not sure.</p> <p>7 Q. How about township, section, and range as</p> <p>8 the acronym?</p> <p>9 A. Doesn't mean anything to me. So I don't</p> <p>10 know. Not sure.</p> <p>11 Q. Those are terms that are used as</p> <p>12 coordinates; right?</p> <p>13 A. I don't know.</p> <p>14 Q. Okay. He says, "TSR's, Aerial Imagery of</p> <p>15 the sites, plural, including the Pow Wow Grounds -</p> <p>16 Cannonball." He sends this to Rebecca Poitra and a</p> <p>17 Dwight Archambault with the BIA. Is Mr. Dwight</p> <p>18 Archambault related at all to the chairman of the</p> <p>19 Standing Rock Sioux Tribe?</p> <p>20 A. Yeah, I have no idea.</p> <p>21 Q. Okay. All right. And so Ms. Poitra, who</p> <p>22 also apparently goes by Becky, sends that e-mail along</p> <p>23 to a group of individuals in the BIA and she says on</p> <p>24 the morning of August 18, "I worked with Sheila,</p> <p>25 Dwight and Harold from the Standing Rock Agency</p>	<p style="text-align: right;">Page 112</p> <p>1 just -- you know, generally speaking on that side of</p> <p>2 the river. So I would have no reason to know who the</p> <p>3 owner is either. I'm just generalizing that that was</p> <p>4 the area on the other side of the Cannonball River.</p> <p>5 Q. Okay. We're going to look at the</p> <p>6 attachment to this e-mail in a minute, and it provides</p> <p>7 a handwritten document that -- it's an aerial and it</p> <p>8 shows the Cannonball River north and south and the</p> <p>9 camp located north of the Cannonball River, just</p> <p>10 north. And it says Oglala Camp in the location that</p> <p>11 is otherwise commonly referred to as the Oceti Sakowin</p> <p>12 Camp. So you can tell me if you have reason to</p> <p>13 believe that's not correct when we get there.</p> <p>14 I want to continue on. She talks about</p> <p>15 next the Sacred Stone Camp. "This is Corps of</p> <p>16 Engineers land." In parentheses, "taken land." What</p> <p>17 does that mean?</p> <p>18 A. I don't have any idea. No idea.</p> <p>19 Q. She goes on to say, "The Corp gave this</p> <p>20 back to Tribe to manage. The title may be in the name</p> <p>21 of the United States of America. There may be some</p> <p>22 controversy on it. Standing Rock Agency may be able</p> <p>23 to provide additional information on this."</p> <p>24 It's just interesting. Then in response</p> <p>25 to Ms. Poitra's e-mail, an individual who's copied on</p>
<p style="text-align: right;">Page 111</p> <p>1 regarding your request. Please find attached a copy</p> <p>2 of your map from this morning with notations,</p> <p>3 additional maps received from the Standing Rock</p> <p>4 agencies and TSR's. I also sent the e-mail to Gary</p> <p>5 Eldevik who was going to take a look at the map also.</p> <p>6 This is information received from Standing Rock</p> <p>7 Agency."</p> <p>8 The first bullet is "Oglala Camp." Do</p> <p>9 you have any reason to believe that this is otherwise</p> <p>10 known as the Oceti Sakowin Camp or eventually became</p> <p>11 known as the Oceti Sakowin Camp north of the</p> <p>12 Cannonball River?</p> <p>13 A. I don't have any reason to believe -- I</p> <p>14 don't know that's what that is, but I do seem to</p> <p>15 recall the Oglala Camp being in the Corps of Engineers</p> <p>16 land north of the Cannonball River. I'm sorry. You</p> <p>17 know what I mean. On the Morton County side of the</p> <p>18 Cannonball River.</p> <p>19 Q. Yes. I appreciate you clarifying that,</p> <p>20 because as of August 18 in the morning Ms. Poitra</p> <p>21 says, "This is off reservation fee land. The owner is</p> <p>22 unknown." So you just identified it likely as Corps</p> <p>23 land, but Ms. Poitra didn't connect that?</p> <p>24 A. Well, I'm just saying it was in that same</p> <p>25 area. I'm not qualified to say who the owner is. I</p>	<p style="text-align: right;">Page 113</p> <p>1 it, Timothy LaPointe, do you know who that fellow is?</p> <p>2 A. I do know who he is. He was the -- I</p> <p>3 believe he was the regional director. I see it now.</p> <p>4 I do see it now.</p> <p>5 Q. Of what?</p> <p>6 A. Of the Bureau of Indian Affairs. Well,</p> <p>7 it would be the Great Plains Region. For us it would</p> <p>8 be district one, but that's -- he's non-law</p> <p>9 enforcement.</p> <p>10 Q. Non-law enforcement. Okay. And this is</p> <p>11 how you come to get the e-mail. He adds you to the</p> <p>12 forward of this string of information, including the</p> <p>13 maps and the title status reports. And he sends it to</p> <p>14 a woman named Misty Lakota. Do you know her?</p> <p>15 A. I do know Misty Lakota. She was former</p> <p>16 Bureau of Indian Affairs Office of Justice Services</p> <p>17 employee, and it looks like, based on her e-mail</p> <p>18 address, that she did eventually go to the Department</p> <p>19 of Interior Office of Law Enforcement and Security,</p> <p>20 based on that e-mail.</p> <p>21 Q. Okay. And so LaPointe says to Misty</p> <p>22 Lakota, "Misty: Pursuant to your request" -- and so</p> <p>23 that's a request from the Department of Interior --</p> <p>24 "attached is the information we were able to locate</p> <p>25 concerning the land status of the (protest) campsites,</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 114</p> <p>1 plural, on/near the Standing Rock Reservation. Let me 2 know if you have questions or need additional 3 information." Let me just finish. 4 August 18, 2016, you were given this 5 information. Do you recall having discussions with 6 your Department of Interior colleagues or other 7 federal agencies with respect to the information 8 provided to you on this date? 9 A. I do not. I am completely unqualified to 10 talk about any of the land status and those kind of 11 things. So I see that I was courtesy copied on here. 12 I likely -- you know, I don't remember having any 13 conversations with anybody about any of this. 14 Q. You just told me that in the past you had 15 used realty specialists so that you were clear for 16 purposes of law enforcement and the like that you 17 wanted to get clear on the status. So here you've got 18 one of those same people starting -- the information 19 had been relayed to you. My question was not do you 20 have an opinion about this, because I understand 21 you're not a specialist on that kind of information, 22 but why can't you tell me whether or not this became a 23 topic of discussion with respect to your official 24 position and why you were involved in the DAPL 25 protests?</p>	<p style="text-align: right;">Page 116</p> <p>1 A. I don't recall, but I think it came from 2 Timothy LaPointe's office. I think it was signed by 3 him, by the region director, but my mind could be 4 refreshed on that one. I don't remember. That's what 5 I seem to remember. 6 Q. So the flier was developed by the Bureau 7 of Indian Affairs and given to protesters occupying 8 lands south of the Cannonball River, question; right? 9 A. On the reservation side, yeah. 10 Q. On the south side of the Cannonball 11 River? 12 A. Correct. 13 Q. Okay. All right. Help me understand, 14 when you say that you were the senior Department of 15 Interior person in North Dakota and you've made 16 several statements in e-mails we've shown and walked 17 through about your focus was on issues on the 18 reservation; right? Is that a fair statement? 19 A. Yeah, absolutely. And I think -- you 20 know, I want to be careful about saying I was the 21 senior official because clearly additional folks from 22 the Department of Interior OLES were there. How I 23 want to say it is that I was the senior law 24 enforcement official there. 25 Q. I understand. So I'm asking you then,</p>
<p style="text-align: right;">Page 115</p> <p>1 A. That wasn't your question. Your question 2 was did I speak to anybody about this. I didn't. 3 Q. You did not. You were not -- 4 A. Did not. 5 Q. Were you part of any discussions 6 concerning the land status information provided by 7 your agency, the Bureau of Indian Affairs? 8 A. The only time would have been closer to 9 the end of the event when a document was provided to 10 us. It was basically a flier that was provided to us 11 that said, Here's the status of the land. And it was 12 presented to the folks that were camping on the 13 Standing Rock side of the Cannonball River. 14 I don't recall what that says. I'm sure 15 my memory can be refreshed on that. I don't recall. 16 But as far as having any substantive or even any that 17 I really recall, I wouldn't have been qualified to 18 even discuss this. That wasn't an area that at that 19 time I was concerned with, and clearly other people 20 were. But, you know, ours was at that moment making 21 sure that, you know, people remained peaceful. So I 22 had no conversations about any of this and wouldn't 23 have completely understood it at the time. 24 Q. So this flier that you're mentioning at 25 the end, who wrote the flier that you're referring to?</p>	<p style="text-align: right;">Page 117</p> <p>1 based upon that and your emphasis to date about where 2 your jurisdiction is and where it's not, why wouldn't 3 you care for documents that are provided to you that 4 define the answer to that question? 5 A. Well, I don't think in that e-mail that 6 you just showed me there was any clear -- that's 7 certainly not what I would have presented in a case 8 file for criminal prosecution from a realty office 9 based on land status, an e-mail with a lot of people 10 on that saying this -- you know, it could be there's 11 questions. That would never have been enough for me 12 to, you know, confidently say in a prosecution. So 13 when I say I use the realty office, that's what I use 14 it for. If there was a Native American -- 15 Q. That's who developed the information 16 we're talking about. 17 A. Well, in an e-mail, but it would have 18 been a much more clear document for me in the past 19 dealing with a realty office. That, to me, looked 20 like an e-mail to a lot of people that says, We're 21 working on these things, we still don't have it sorted 22 out. That's how I would have taken it. 23 Q. The attachments speak for themselves. So 24 I won't talk to you about those. But let's go to the 25 attachments after the title status reports, which do</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 118</p> <p>1 state a position. Let's go to the first picture.</p> <p>2 It's a Google Earth image. Do you see that? Do you</p> <p>3 want to have it blown up in any regards or flipped</p> <p>4 around so you can --</p> <p>5 A. If it could be flipped, that would be...</p> <p>6 Q. There you go.</p> <p>7 A. Okay.</p> <p>8 Q. Okay. So you see this -- you see the two</p> <p>9 orange dots or orange areas?</p> <p>10 A. I do.</p> <p>11 Q. Okay. You see the river flowing between</p> <p>12 the north orange location and the south orange</p> <p>13 location?</p> <p>14 A. Okay. Yes.</p> <p>15 Q. Do you see that?</p> <p>16 A. Uh-huh.</p> <p>17 Q. Can we stipulate that's the Cannonball</p> <p>18 River?</p> <p>19 A. I have no reason to believe that it's</p> <p>20 not.</p> <p>21 Q. In fact, it says it right there on the</p> <p>22 BIA's map. It points to the river, that red line that</p> <p>23 I asked you -- can we agree that's the Cannonball</p> <p>24 River?</p> <p>25 A. Okay. Yes. Sure.</p>	<p style="text-align: right;">Page 120</p> <p>1 several times, you told me you'd start your day at the</p> <p>2 North Dakota Law Enforcement Center for hours, get</p> <p>3 information, and relay anything that you knew on the</p> <p>4 Standing Rock side.</p> <p>5 A. Yeah.</p> <p>6 Q. Then you would go down to the protest</p> <p>7 camps; right?</p> <p>8 A. No, I would not go down to the protest</p> <p>9 camps. And, in fact, there was a very long time where</p> <p>10 you couldn't really even get through there. You would</p> <p>11 have to come around and come through the back side.</p> <p>12 But I've had occasion to drive down 1806 past the</p> <p>13 camps.</p> <p>14 Q. Okay. But there --</p> <p>15 A. But there were no camp signs that said,</p> <p>16 This is Camp Such and Such and this is Camp Such and</p> <p>17 Such. So I think in my mind, I just thought that camp</p> <p>18 was in a different location.</p> <p>19 Q. But you did drive by a camp located north</p> <p>20 of the Cannonball River; correct?</p> <p>21 A. Yeah. The big -- that's how we referred</p> <p>22 to it, "the big camp." And, you know, oftentimes it</p> <p>23 was not referred to as individual camps, the big camp,</p> <p>24 but yes, I drove past it.</p> <p>25 Q. Okay. Thank you. And so you see where</p>
<p style="text-align: right;">Page 119</p> <p>1 Q. Okay. So there is a handwritten notation</p> <p>2 on here in black next to the large orange area denoted</p> <p>3 north of the Cannonball River. It says Oglala Camp.</p> <p>4 A. Yeah. I see that, but that -- before you</p> <p>5 showed me this picture that is not where I thought</p> <p>6 that camp was located at.</p> <p>7 Q. Where did you think it was located?</p> <p>8 A. I thought it was located further north of</p> <p>9 the Spirit Camp on the Cannonball River side -- other</p> <p>10 side of the Cannonball River more in the middle of</p> <p>11 that, the bigger camp there. That's where I thought</p> <p>12 that camp was located when I said I remember the</p> <p>13 Oglala Camp being mentioned.</p> <p>14 Q. So is the BIA information wrong?</p> <p>15 A. No. I'm not saying that is wrong, no.</p> <p>16 I'm just saying that's not where I -- when you asked</p> <p>17 me about it earlier and before we showed this picture,</p> <p>18 that's not where I thought that was. I thought it</p> <p>19 was -- because I think there were several camps named</p> <p>20 over there on that side. I just misremembered, I</p> <p>21 suppose, but where I thought it was was closer to</p> <p>22 the -- how do I -- I don't know what you call them,</p> <p>23 but the berms, the hills that went up on the far side</p> <p>24 of that land where the big camp was.</p> <p>25 Q. So you -- when you were in North Dakota</p>	<p style="text-align: right;">Page 121</p> <p>1 that orange marking is that someone wrote attributing</p> <p>2 Oglala Camp to it?</p> <p>3 A. I do. I do.</p> <p>4 Q. Do you have any reason to disagree with</p> <p>5 me that's otherwise known as the Oceti Sakowin or the</p> <p>6 big camp?</p> <p>7 A. No. It's definitely referred -- I</p> <p>8 definitely referred to it as "the big camp."</p> <p>9 Q. Are we talking about the same location?</p> <p>10 That's the only question I'm asking.</p> <p>11 A. Well, it's just -- and I'm not trying to</p> <p>12 be difficult here. It's just perspective on how big</p> <p>13 that camp was. It's hard to give perspective on using</p> <p>14 this map here.</p> <p>15 Q. Is that the location you saw the big</p> <p>16 camp, plus or --</p> <p>17 A. Generally speaking, right.</p> <p>18 Q. Thank you. Let's keep rolling. I'd like</p> <p>19 to go to exhibit -- let me put this back in my binder.</p> <p>20 MR. SCARPATO: While you're searching for</p> <p>21 your next exhibit, Paul, I'll just note for the record</p> <p>22 that there are additional maps on this exhibit that</p> <p>23 Mr. Cruzan was not shown for purposes of that last</p> <p>24 section of questioning.</p> <p>25 MR. SEBY: That's correct, Bill. You're</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 122</p> <p>1 right.</p> <p>2 (Deposition Exhibit 750 was remotely</p> <p>3 introduced and provided electronically to the court</p> <p>4 reporter.)</p> <p>5 Q. (BY MR. SEBY) Let's go to Exhibit 750.</p> <p>6 This is an e-mail from you to Michael Black, who you</p> <p>7 told me was with the BIA, and Lawrence Roberts, who</p> <p>8 you've told me about, and Tommy Beaudreau. Who's</p> <p>9 Mr. Beaudreau?</p> <p>10 A. So Tommy, yeah, I don't know what his</p> <p>11 exact title was, but I know that he worked for the</p> <p>12 secretary of the Interior. But I don't know what his</p> <p>13 exact role was.</p> <p>14 Q. Do you know Mr. Beaudreau at all or you</p> <p>15 just were told to include him on things?</p> <p>16 A. I don't know why he would be on there. I</p> <p>17 certainly did not know people up in that front office</p> <p>18 that way. So somebody would have had to say add him</p> <p>19 to the distribution list, I guess, because I wouldn't</p> <p>20 have known and certainly wouldn't have bypassed my</p> <p>21 bosses without, you know, being told to put him on</p> <p>22 there. I didn't know him. I'm aware who he is now,</p> <p>23 but at the time I didn't.</p> <p>24 Q. You didn't know who he was at the time?</p> <p>25 A. Not really, no. I really didn't.</p>	<p style="text-align: right;">Page 124</p> <p>1 as part of your evening update. And there is, let's</p> <p>2 see, one, two, three, four -- the fifth bullet, if</p> <p>3 you'd go there, please. "US Army Corp of Engineers</p> <p>4 confirmed that they do not have any law enforcement</p> <p>5 resources to patrol their land (camp sites, plural).</p> <p>6 The US Army Corp of Engineers stated they have not</p> <p>7 granted any special use permit for camping to the</p> <p>8 Standing Rock Sioux Tribe."</p> <p>9 So this is your update to the assistant</p> <p>10 secretary of the Interior and to the chief of staff to</p> <p>11 the secretary. So I want to ask you, what's the</p> <p>12 context of this bullet talking about?</p> <p>13 A. Yeah. I'm not sure. I don't know where</p> <p>14 I would have gotten that. It looks to me -- I'm not</p> <p>15 contesting the fact that it's sent from me to those</p> <p>16 individuals, but it also looks like I cut and pasted</p> <p>17 this from something, because it talks to me on the</p> <p>18 fourth bullet in the third person. So I'm not sure.</p> <p>19 And, you know, as this may sound, you</p> <p>20 know, the law enforcement piece of this was what we</p> <p>21 were concerned about. I'm not qualified to talk about</p> <p>22 land status. I am qualified to pass information</p> <p>23 along. I don't know where I got this and I don't know</p> <p>24 where it came from.</p> <p>25 Q. I'm not asking you about land status.</p>
<p style="text-align: right;">Page 123</p> <p>1 Q. Or what his purpose was?</p> <p>2 A. Well, I mean, I think I must have at that</p> <p>3 point because I did know now that he's the -- was, you</p> <p>4 know, in the secretary's office, but I had no</p> <p>5 interaction with him whatsoever. And, you know,</p> <p>6 there's a lot of people up in that office that I</p> <p>7 wouldn't have known.</p> <p>8 Q. Do you have any reason to question that</p> <p>9 he was the chief of staff to the secretary of the</p> <p>10 United States Department of the Interior?</p> <p>11 A. No. No. That does ring a bell to me.</p> <p>12 So yeah. Yeah. It does ring a bell.</p> <p>13 Q. Great. So your e-mail is entitled</p> <p>14 "Evening Update," to the assistant secretary and the</p> <p>15 chief of staff to the secretary of the Interior and</p> <p>16 Mr. Black?</p> <p>17 A. Okay.</p> <p>18 Q. And you want to read the e-mail? It's</p> <p>19 your e-mail.</p> <p>20 A. I can.</p> <p>21 Q. Please.</p> <p>22 A. Okay.</p> <p>23 Q. Have you read it?</p> <p>24 A. I've read through it, yes.</p> <p>25 Q. Okay. So it consists of several bullets</p>	<p style="text-align: right;">Page 125</p> <p>1 Let's not --</p> <p>2 A. Well, you sort of did. You asked me</p> <p>3 about the context of that fifth bullet, and I don't</p> <p>4 know the context of it. It would have been</p> <p>5 information that I would have been passing along.</p> <p>6 Q. Okay.</p> <p>7 A. And it appears to me to have been cut and</p> <p>8 pasted from something.</p> <p>9 Q. All right. So you don't know where you</p> <p>10 got this. You were just passing along whatever was</p> <p>11 given to you?</p> <p>12 A. Well, I don't want to say anything that</p> <p>13 was given to me was passed along. It would have come</p> <p>14 from some source. I just don't know what it was. I</p> <p>15 don't recall.</p> <p>16 Q. Do you recall chastising a BIA</p> <p>17 intelligence officer for giving you information that</p> <p>18 he later withdrew and you got -- you chastised him</p> <p>19 because you said, Hey, this needs to be accurate</p> <p>20 because I pass this stuff up to the secretary's</p> <p>21 office? Do you recall that?</p> <p>22 A. I don't recall that. Certainly not in my</p> <p>23 nature to chastise.</p> <p>24 Q. That's my word. Your communication to</p> <p>25 that individual, which I know you don't see it, but</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 126</p> <p>1 I'm asking if you recall it?</p> <p>2 A. I don't recall that.</p> <p>3 Q. Telling the agent to be more careful?</p> <p>4 A. You know, being careful, I don't dispute</p> <p>5 that I would some time tell people to be careful, but</p> <p>6 I don't remember what you're referring to, no.</p> <p>7 Q. Okay. So when I use the word, what's the</p> <p>8 context of this, I was not asking about land status.</p> <p>9 I was asking the context of you reporting information</p> <p>10 coming or attributed to the Corps of Engineers. Is</p> <p>11 this the first time you became aware of the Corps of</p> <p>12 Engineers' role or potential role?</p> <p>13 A. I'm not sure. I doubt it was my first</p> <p>14 time, you know, knowing that the Corps of Engineers</p> <p>15 had a role in this situation, but I couldn't pinpoint</p> <p>16 for you a date when I first knew the Corps of</p> <p>17 Engineers was -- or if this was, you know, my first.</p> <p>18 Q. Well, which is it? You've said</p> <p>19 everything in between. Is this the first time you</p> <p>20 knew about the Corps of Engineers, you're relaying it</p> <p>21 for the first time, or you're aware of the Corps' land</p> <p>22 status north of the Cannonball River at least prior?</p> <p>23 A. Well, you're asking me a lot of questions</p> <p>24 right there. So I don't know if this is the first</p> <p>25 I've heard of the Corps of Engineers. I'm assuming</p>	<p style="text-align: right;">Page 128</p> <p>1 the e-mail. That's clear, unless you tell me you</p> <p>2 didn't send the e-mail with your name on it.</p> <p>3 A. No, I'm sure I did. I think this was</p> <p>4 probably a standard briefing document that we would</p> <p>5 write. It doesn't -- I don't remember exactly, but</p> <p>6 it's got Interior law enforcement security on there</p> <p>7 and then Bureau -- I mean, it looks like to me like a</p> <p>8 standard report that would be written and sent to, you</p> <p>9 know, that chain.</p> <p>10 Q. I just want to ask you, because you said</p> <p>11 it had -- it's from the Bureau of Indian Affairs.</p> <p>12 A. Well, it's got the seal on there. That's</p> <p>13 why I'm saying that. And it doesn't, actually. It</p> <p>14 doesn't, actually. It just looks like that. They're</p> <p>15 both Interior seals.</p> <p>16 Q. Let's be clear. There is no Bureau of</p> <p>17 Indian Affairs seal here, is there?</p> <p>18 A. No, there is not. That was a mistake.</p> <p>19 Q. Got it. Thank you. And so it's dated --</p> <p>20 it's called an "Office of Law Enforcement and Security</p> <p>21 Executive Summary" and it's got two seals. The one on</p> <p>22 the left is the Department of Interior seal; right?</p> <p>23 A. It is.</p> <p>24 Q. And the one on the right is the Interior</p> <p>25 Law Enforcement and Security Department?</p>
<p style="text-align: right;">Page 127</p> <p>1 that it's not. I'm assuming that, you know, because I</p> <p>2 knew that the land that was within the exterior</p> <p>3 boundaries of the reservation was Corps land, I doubt</p> <p>4 that this is the first time that I've heard Corps of</p> <p>5 Engineers mentioned.</p> <p>6 (Deposition Exhibit 751 was remotely</p> <p>7 introduced and provided electronically to the court</p> <p>8 reporter.)</p> <p>9 Q. Got it. So let's go to Exhibit 751,</p> <p>10 please. So this is an e-mail from you to</p> <p>11 Mr. Gallagher, the individual that was directed to</p> <p>12 accompany you so that he could report directly to the</p> <p>13 Department of Interior official -- we talked about</p> <p>14 that -- Harry. And you're giving it to him. It says</p> <p>15 "Monday.doc" and it's dated Monday, August 22, 2016.</p> <p>16 Would you look at the attachment, please. I'm not</p> <p>17 asking you to read it. Just look at the top there,</p> <p>18 the document.</p> <p>19 A. Okay.</p> <p>20 Q. What do you see that this is? How do you</p> <p>21 recognize that?</p> <p>22 A. Well, I think it was something that was</p> <p>23 prepared -- this is from me to Jim, is that what</p> <p>24 you're saying?</p> <p>25 Q. The e-mail is. I'm asking you not about</p>	<p style="text-align: right;">Page 129</p> <p>1 A. That's correct.</p> <p>2 Q. Okay. And it's dated August 22, 2016;</p> <p>3 correct?</p> <p>4 A. Yes, it is.</p> <p>5 Q. So is this the first time you're aware</p> <p>6 this document was prepared regarding the Dakota Access</p> <p>7 Pipeline protest?</p> <p>8 A. I have no idea if it is or if it isn't.</p> <p>9 Q. Okay. And because this is not BIA, it's</p> <p>10 not limited to just the Standing Rock Reservation. It</p> <p>11 says in the title the DAPL pipeline protest. So what</p> <p>12 do you know about this? Did you participate in</p> <p>13 writing this document?</p> <p>14 MR. SCARPATO: Paul, if you're going to</p> <p>15 ask questions about the details of this document, it's</p> <p>16 only fair for Mr. Cruzan to have the opportunity to at</p> <p>17 least skim the document in its entirety before you ask</p> <p>18 him those sorts of questions.</p> <p>19 Q. (BY MR. SEBY) Mr. Cruzan, are you going</p> <p>20 to answer my question about the nature of the</p> <p>21 document? I'm not asking about any details of it.</p> <p>22 A. Yeah. I will tell you what I think</p> <p>23 without looking at it. It's got -- and I was wrong.</p> <p>24 It is Department of Interior seals and Office of Law</p> <p>25 Enforcement and Security heading. So I don't think I</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 130</p> <p>1 would have had any hand in writing that per se because</p> <p>2 I wasn't Department of Interior or Office of Law</p> <p>3 Enforcement and Security. I don't know what the</p> <p>4 document is.</p> <p>5 Q. You don't?</p> <p>6 A. I haven't read it, no. I have not read</p> <p>7 it, but I see --</p> <p>8 Q. Sir, I'm not asking about the content.</p> <p>9 I'm asking about this type of document in general,</p> <p>10 what it's for and who wrote it and what's it used for.</p> <p>11 That's all I'm asking.</p> <p>12 A. Yeah.</p> <p>13 MR. SCARPATO: Paul, if he could take the</p> <p>14 opportunity to read the document in full, he could see</p> <p>15 at the last page who the document lists as the author.</p> <p>16 And I believe that if you want to get useful testimony</p> <p>17 from this witness on this document that he hasn't seen</p> <p>18 for at least six years, plus or minus, it would be</p> <p>19 only fair for him to review the document so he knows</p> <p>20 what's in there.</p> <p>21 MR. SEBY: I don't need to waste the</p> <p>22 time, Bill. You keep suggesting that. I'm declining</p> <p>23 that, because I'm not asking about the content.</p> <p>24 Q. (BY MR. SEBY) So we can go to the very</p> <p>25 end, as your counsel --</p>	<p style="text-align: right;">Page 132</p> <p>1 don't know why I sent that to him.</p> <p>2 Q. Okay. I get it.</p> <p>3 A. I don't know.</p> <p>4 (Deposition Exhibit 752 was remotely</p> <p>5 introduced and provided electronically to the court</p> <p>6 reporter.)</p> <p>7 Q. Okay. So let's go to the next</p> <p>8 Exhibit 752. So short e-mail from you. And the</p> <p>9 attachment appears to be the very same August 22,</p> <p>10 2016, DAPL protest, Office of Law Enforcement and</p> <p>11 Security Executive Summary. This time it has no seals</p> <p>12 on it, does it?</p> <p>13 A. No.</p> <p>14 Q. Okay. And your e-mail says, "Changes</p> <p>15 from yesterday in red. Harry will be sending to</p> <p>16 Tommy." So "Tommy" is Tommy Beaudreau, isn't it?</p> <p>17 A. I'm sure it is, yes.</p> <p>18 Q. The chief of staff of Secretary Sally</p> <p>19 Jewell, Department of Interior?</p> <p>20 A. Okay.</p> <p>21 Q. Correct?</p> <p>22 A. Yes. That's his role.</p> <p>23 Q. And so why are you sending an e-mail with</p> <p>24 this document later to the assistant secretary of the</p> <p>25 Department of Interior and others reflecting revisions</p>
<p style="text-align: right;">Page 131</p> <p>1 MR. SCARPATO: Answer about the language</p> <p>2 contained within the document, it is not fair or</p> <p>3 appropriate for you to ask him these questions without</p> <p>4 giving him the opportunity at least to review the</p> <p>5 document briefly to understand what it contains.</p> <p>6 MR. SEBY: It's a seven-page document,</p> <p>7 and you're wasting my time. So if you want to look at</p> <p>8 the very end of my document, I'm happy to have you</p> <p>9 look at that.</p> <p>10 Q. (BY MR. SEBY) And so there you go. It's</p> <p>11 prepared by Deputy Director James Patrick Gallagher;</p> <p>12 right?</p> <p>13 A. Okay. Yes, I see that.</p> <p>14 Q. So why are you e-mailing it to him?</p> <p>15 A. That's a good question. I don't know,</p> <p>16 unless there's possibility that his -- you know, I</p> <p>17 don't know. His e-mail wasn't working? I don't know.</p> <p>18 He was one of the individuals that the department</p> <p>19 sent --</p> <p>20 Q. Are you speculating?</p> <p>21 A. That's absolutely speculation. I don't</p> <p>22 know why I would have sent that to him. He was one of</p> <p>23 the individuals that was at the department -- we</p> <p>24 talked about this earlier. They sent him there to</p> <p>25 assist, and this is assuming a report that he did. I</p>	<p style="text-align: right;">Page 133</p> <p>1 from the earlier version that are in red?</p> <p>2 A. Yeah. I couldn't -- I don't know. I</p> <p>3 don't know why I sent the first one unless there was</p> <p>4 problems with his computer. I don't know. I'm not</p> <p>5 sure.</p> <p>6 Q. Again, you're speculating, aren't you?</p> <p>7 A. I don't know. I don't know why I would</p> <p>8 have sent that for any other reason.</p> <p>9 (Deposition Exhibit 755 was remotely</p> <p>10 introduced and provided electronically to the court</p> <p>11 reporter.)</p> <p>12 Q. Seven -- let's see here. 755. Do you</p> <p>13 want to take a moment, please, and read that.</p> <p>14 A. Sure. I'll read this.</p> <p>15 Q. You're copied. It's actually sent to you</p> <p>16 from Mr. Gallagher, the individual with the Department</p> <p>17 of Interior, deputy director, Office of Law</p> <p>18 Enforcement and Security, that Mr. Humbert directed</p> <p>19 and dispatched to North Dakota to sit with you so he</p> <p>20 could hear from this individual reports directly;</p> <p>21 right?</p> <p>22 A. Yeah.</p> <p>23 Q. Okay. Please take a moment and read the</p> <p>24 e-mail.</p> <p>25 A. Okay.</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 134</p> <p>1 Q. Okay. You done?</p> <p>2 A. I am.</p> <p>3 Q. Okay. So this is interesting.</p> <p>4 Mr. Gallagher is talking to you saying he went to a</p> <p>5 DOJ domestic terrorism executive committee meeting and</p> <p>6 heard a briefing from the FBI CTD chief. Who is that</p> <p>7 fellow?</p> <p>8 A. I have no idea.</p> <p>9 Q. He's some sort of chief in the FBI. And</p> <p>10 he asked about the situation with the DAPL and the</p> <p>11 Standing Rock Sioux Tribe and he asked if we could</p> <p>12 update -- I don't know what those acronyms stand for.</p> <p>13 Do you know?</p> <p>14 A. Well, NJTTF, National Joint Terrorism</p> <p>15 Task Force. I don't know what the DTU is. Domestic</p> <p>16 terrorism. I don't know what that is.</p> <p>17 Q. Okay.</p> <p>18 A. SVTC, I don't know what that is either.</p> <p>19 Q. Okay. So he's asking if we, you and he,</p> <p>20 could update that National Joint Terrorism Task Force</p> <p>21 at least on the situation in North Dakota. And he's</p> <p>22 asking for your availability, basically a week from</p> <p>23 then in the morning. "I would drive you over to the</p> <p>24 Hoover Building." That's the FBI headquarters in</p> <p>25 Washington, D.C.; right?</p>	<p style="text-align: right;">Page 136</p> <p>1 I don't really remember that relationship</p> <p>2 with the FBI guy in Bismarck. I haven't given it much</p> <p>3 thought. I've always had good relationships with the</p> <p>4 FBI. And so I don't really remember, you know.</p> <p>5 Q. Is this a turf squabble?</p> <p>6 A. No. It wouldn't have been a turf</p> <p>7 squabble because they didn't -- no. Are you talking</p> <p>8 about -- I don't think so. I wouldn't think so. I</p> <p>9 don't know. You know, some people are more pleasant</p> <p>10 to be around than others. I think that may be what</p> <p>11 he's referring to, but I don't remember there being</p> <p>12 any problems between us and the Bismarck FBI. Just</p> <p>13 nothing comes to mind that there were any problems.</p> <p>14 (Deposition Exhibit 722 was remotely</p> <p>15 introduced and provided electronically to the court</p> <p>16 reporter.)</p> <p>17 Q. All right. Could we go to 722, please.</p> <p>18 So this is a one-page document. It's a calendar</p> <p>19 invite, isn't it?</p> <p>20 A. Looks like a calendar invite, yes.</p> <p>21 Q. And the organizer of the call that's</p> <p>22 being organized here is Chris Myers, the United States</p> <p>23 Attorney for the District of North Dakota?</p> <p>24 A. Uh-huh.</p> <p>25 Q. And the subject is "Standing Rock -</p>
<p style="text-align: right;">Page 135</p> <p>1 A. It is, yes.</p> <p>2 Q. "And you would be back by 9:30." So it's</p> <p>3 an hour meeting. And I am quite prepared to give a</p> <p>4 general overview but would give you or your designee</p> <p>5 an opportunity to address the two FBI sections I deal</p> <p>6 with the most. You probably have contacts there and</p> <p>7 the new CTD Chief is a great guy and very supportive</p> <p>8 of Department of Interior, unlike the local FBI rep in</p> <p>9 Bismarck. What is that referring to?</p> <p>10 A. I have no idea. I have no idea.</p> <p>11 Q. Okay. He says, "I didn't hand up the</p> <p>12 Bismarck FBI rep by name but told Michael Paul."</p> <p>13 Who's Michael Paul?</p> <p>14 A. I don't know. Maybe the -- well, he's</p> <p>15 right up there in the first e-mail.</p> <p>16 Q. Right. He told Michael Paul that "we</p> <p>17 didn't get the same cooperation we had from his office</p> <p>18 during Malheur." What is this referring to?</p> <p>19 A. Well, not anything that I was involved</p> <p>20 in, but apparently they didn't have during the Malheur</p> <p>21 standoff with, I think, the Bundy family. That's --</p> <p>22 you'll have to ask Jim Gallagher that. I don't have</p> <p>23 any context but beyond that. They didn't feel like</p> <p>24 they had a -- or that they had a good relationship</p> <p>25 there, but not so much with the one in Bismarck.</p>	<p style="text-align: right;">Page 137</p> <p>1 Federal Partners Teleconference."</p> <p>2 A. Okay.</p> <p>3 Q. Seeking a 30-minute call on September 1,</p> <p>4 2016. And the required attendees, as Mr. Myers noted,</p> <p>5 is other individuals from the United States Attorney's</p> <p>6 Office for North Dakota, a Jacob O'Connell with the</p> <p>7 Federal Bureau of Investigation, Paul Ward, the United</p> <p>8 States Marshal for North Dakota, and a person from his</p> <p>9 office, Dan Orr, and another FBI agent named Richard</p> <p>10 Thornton and another FBI person named Robert Perry,</p> <p>11 you, and another person from the U.S. Attorney's</p> <p>12 Office. Did you participate in this call?</p> <p>13 A. I don't remember if I did or not. I</p> <p>14 probably did. I most likely did, but I don't</p> <p>15 specifically remember the phone call.</p> <p>16 Q. Did you join any of these kinds of calls?</p> <p>17 A. I might have. Seems like that there was</p> <p>18 one, and if I recall there was an in-person call --</p> <p>19 not in-person call -- an in-person meeting kind of</p> <p>20 like this, but I don't remember exactly. I don't</p> <p>21 remember it being a reoccurring kind of a thing.</p> <p>22 Q. I asked neither of those things. This is</p> <p>23 a telephone call.</p> <p>24 A. You asked me if I had participated and I</p> <p>25 said I don't recall if I participated in this one.</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 138</p> <p>1 Q. Then I asked you did you participate in 2 other similar calls.</p> <p>3 A. I don't recall participating in any of 4 these phone calls.</p> <p>5 Q. Okay. So this is called a "federal 6 partners teleconference" and you've got a pretty 7 important group of people. You're one of them?</p> <p>8 A. I think -- I mean, it's very possible 9 that I did. I just don't recall specifically this 10 one.</p> <p>11 Q. So why isn't the Corps of Engineers 12 listed in here as one of the federal partners?</p> <p>13 A. I wouldn't have any idea.</p> <p>14 MR. SCARPATO: Objection; foundation.</p> <p>15 MR. SEBY: Okay. All right. It is now 16 11 minutes past noon in the Mountain Timezone. I'm 17 going to call a lunch break for 45 minutes. All 18 right?</p> <p>19 THE DEPONENT: Sounds good to me. So 20 we're talking about 3 o'clock my time?</p> <p>21 MR. SEBY: That's correct. 1 o'clock 22 Mountain, 3 o'clock Eastern.</p> <p>23 THE DEPONENT: Okay. Very good. I will 24 see you guys there.</p> <p>25 MR. SCARPATO: Thank you.</p>	<p style="text-align: right;">Page 140</p> <p>1 Q. And, in fact, this one says -- this was 2 primarily intended for law enforcement, wasn't it?</p> <p>3 A. I don't know who they sent it to.</p> <p>4 Q. You probably received it because you were 5 the Bureau of Indian Affairs Office of Law Enforcement 6 Services, right, or Justice?</p> <p>7 A. Yeah, I'm assuming that's right.</p> <p>8 Q. Yeah. And it says that -- this 9 particular one is on September 3. Do you recall that 10 date?</p> <p>11 A. I don't. I do not, no.</p> <p>12 Q. Or any incidents that occurred on that?</p> <p>13 A. On that date?</p> <p>14 Q. Yes.</p> <p>15 A. I don't.</p> <p>16 Q. Okay.</p> <p>17 A. Nothing comes to mind.</p> <p>18 Q. Did all of these notices that you 19 received say they were for code red notifications?</p> <p>20 A. I don't recall. I don't know.</p> <p>21 Q. Okay. Do you know what code red means in 22 North Dakota parlance?</p> <p>23 A. I don't. I'm assuming that it's an 24 emergency, but I don't.</p> <p>25 Q. Okay. What did you do when you received</p>
<p style="text-align: right;">Page 139</p> <p>1 THE VIDEOGRAPHER: We are off the record 2 at 12:12 p.m.</p> <p>3 (Recess taken, 12:12 p.m to 1:01 p.m.)</p> <p>4 THE VIDEOGRAPHER: We are back on the 5 record at 1:01 p.m.</p> <p>6 Q. (BY MR. SEBY) Good afternoon, Mr. Cruzan. 7 We're back after a lunch break.</p> <p>8 A. Good afternoon.</p> <p>9 (Deposition Exhibit 756 was remotely 10 introduced and provided electronically to the court 11 reporter.)</p> <p>12 Q. We'll continue with exhibits to talk 13 about. 756 is the one to focus on next. So this is 14 an e-mail from Tom Doering, Morton County, North 15 Dakota, on Saturday, September 3 to you and it says 16 "DAPL EOC Activation," Emergency Operations Center 17 activation. And do you know why you received this 18 e-mail?</p> <p>19 A. Yeah. You know, the best of my 20 recollection, any time there was any incident 21 occurring, lots of people would get this. I don't 22 remember this particular one, and I hadn't thought 23 about it until I just saw this, but it seems like 24 there were alerts that went out any time there was any 25 significant incident or activity happening.</p>	<p style="text-align: right;">Page 141</p> <p>1 these notices?</p> <p>2 A. Well, it seemed to me like there was more 3 to it than just this notice. I recall getting more 4 information than just this. Seems like there was -- 5 so I probably didn't do anything except pay a little 6 extra attention to what might be going on, that the 7 Morton County sheriff and his team might have had 8 going on.</p> <p>9 It would have gotten my attention, for 10 sure. I think I would have looked for more 11 information. I didn't respond anywhere, if that's 12 what you're asking. There was no -- it wasn't 13 necessary for me to respond to anything.</p> <p>14 Q. I asked what did you do when you received 15 it?</p> <p>16 A. I probably would have paid more attention 17 to what's going on. It would have gotten my attention 18 and I would have looked for more information as to 19 what was happening.</p> <p>20 Q. But with respect to September 3, this 21 call for a code red notification, you don't recall 22 what that -- even though it got your attention, you 23 don't recall what it involved?</p> <p>24 A. No. Any of these would have gotten my 25 attention. So this one doesn't stand out to me, you</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 142</p> <p>1 know, until I maybe have some more context.</p> <p>2 (Deposition Exhibit 757 was remotely</p> <p>3 introduced and provided electronically to the court</p> <p>4 reporter.)</p> <p>5 Q. Let's go to 756 -- pardon me -- 757. If</p> <p>6 we could go to the bottom of this e-mail. This is an</p> <p>7 e-mail to you addressed to, "Darren, do you have" --</p> <p>8 and this is from Ryan Bernstein. Do you recall who</p> <p>9 Mr. Bernstein is?</p> <p>10 A. Yeah. I mean, I remember, you know,</p> <p>11 being a senator or a staffer for the senator, because</p> <p>12 I can see the e-mail there, but if you would have</p> <p>13 asked me his name without this e-mail, I wouldn't have</p> <p>14 known.</p> <p>15 Q. In fact, the parenthetical next to his</p> <p>16 name says "Hoeven"; right?</p> <p>17 A. Hoeven. Uh-huh.</p> <p>18 Q. Do you recognize who that individual is?</p> <p>19 A. Who Hoeven is?</p> <p>20 Q. Yes.</p> <p>21 A. I do know who Senator Hoeven is,</p> <p>22 certainly.</p> <p>23 Q. And that would be who?</p> <p>24 A. Senator Hoeven from North Dakota.</p> <p>25 Q. The United States senator representing</p>	<p style="text-align: right;">Page 144</p> <p>1 are you "okay with this response to an out of the blue</p> <p>2 e-mail?"</p> <p>3 A. Yeah.</p> <p>4 Q. Right?</p> <p>5 A. I don't remember that e-mail, but I'm not</p> <p>6 contesting that I sent it. I'm reading it. I see it.</p> <p>7 Q. Yeah. Why don't you go ahead and read</p> <p>8 what you sent as a draft response to the United States</p> <p>9 senator that you ran up the flagpole in the Department</p> <p>10 of Interior to the assistant secretary.</p> <p>11 A. Okay. I'm good.</p> <p>12 Q. Why is the font different in your</p> <p>13 proposed draft e-mail?</p> <p>14 A. Yeah. I'm not sure. I'm not sure.</p> <p>15 Q. Is that because multiple people wrote it</p> <p>16 for you?</p> <p>17 A. I doubt that.</p> <p>18 Q. I don't see any of your other e-mails</p> <p>19 have alternating font like that.</p> <p>20 A. Well, there was. There certainly was.</p> <p>21 In an earlier document that you showed me there was</p> <p>22 different fonts.</p> <p>23 Q. And why was that? Because someone else</p> <p>24 wrote it for you; right?</p> <p>25 A. Yeah. But in this, this is exactly how I</p>
<p style="text-align: right;">Page 143</p> <p>1 the State of North Dakota?</p> <p>2 A. Uh-huh.</p> <p>3 Q. Okay. So he says, "Darren, do you have</p> <p>4 time to talk to either me or Senator Hoeven about</p> <p>5 getting more BIA law enforcement to North Dakota to</p> <p>6 help with the protest? The Governor may make a formal</p> <p>7 request for more help in the next 2 days and we want</p> <p>8 to know what is possible and what is the process for</p> <p>9 such request."</p> <p>10 He asks you some specific questions;</p> <p>11 right?</p> <p>12 A. Well, he asks me if I had time to talk to</p> <p>13 he or either -- either he or the senator. Yeah. He</p> <p>14 asked me one and they want to know what the process is</p> <p>15 for such a request. Okay.</p> <p>16 Q. But they also start by -- he starts by</p> <p>17 telling you the reason for wanting to talk with you is</p> <p>18 about getting more BIA law enforcement to North Dakota</p> <p>19 to help with the protests; right?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. And then curious -- if we can go</p> <p>22 to your response, that would be great, please. So you</p> <p>23 didn't reply to him on your own. You or a group of</p> <p>24 people helped draft a response that you sent up to the</p> <p>25 assistant secretary for Indian Affairs. And you said</p>	<p style="text-align: right;">Page 145</p> <p>1 would have responded. This does appear to be what I</p> <p>2 would say. And why the font is different, I really</p> <p>3 couldn't tell you. But, you know, a request like</p> <p>4 that, I wouldn't immediately respond, nor would there</p> <p>5 have been any -- you know, that wasn't something that</p> <p>6 I was looking for. I think at that time I wasn't</p> <p>7 looking for more resources that I didn't have access</p> <p>8 to.</p> <p>9 You know, our jurisdiction falls strictly</p> <p>10 within the boundaries of the reservation. So I could</p> <p>11 only assume that he is looking for additional help</p> <p>12 outside the reservation. So I'm certainly not going</p> <p>13 to respond back to the senator's office without</p> <p>14 getting some, you know, input and some thought anyway,</p> <p>15 approval, if you will, from my leadership. Why the</p> <p>16 font is different, I really couldn't tell you, but</p> <p>17 this looks like exactly how I would respond.</p> <p>18 Q. Is this the e-mail that you sent to the</p> <p>19 senator's chief of staff?</p> <p>20 A. I'm not sure.</p> <p>21 Q. So what did Mr. Roberts say to you when</p> <p>22 you asked him, Is this -- are you okay with this?</p> <p>23 A. Yeah. I don't recall, you know, what</p> <p>24 came of this e-mail here or my question to him about,</p> <p>25 Are we okay with this response.</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 146</p> <p>1 Q. So you said this was an out-of-the-blue 2 e-mail. Do you really think that a United States 3 senator from the state in which there's a raging 4 protest on federal property public lands that you as a 5 Bureau of Indian Affairs director of Office of Justice 6 Services -- you think that's out of the blue or odd? 7 I don't know what you're -- 8 A. Well, I guess I would look at it to be, 9 you know, a little unexpected e-mail in that, you 10 know, those officers -- I don't ever remember having a 11 conversation with him prior to this. So, you know, if 12 I were to have said, Hey, I really need more officers 13 here, I wish I could get some, and then he asked me 14 that question, but I don't think this was ever 15 detailing officers. 16 At least, you know, early on, we were 17 bringing them from all over Indian country. So why 18 somebody would ask me the process for bringing more 19 BIA officers in when I wasn't, you know, looking to 20 bring more officers in that I didn't already have, I 21 would think that would be -- it was unusual. 22 Q. Do you think it would be possible that 23 North Dakota was just trying to contact every federal 24 law enforcement official in North Dakota known to the 25 state because you joined those efforts and they were</p>	<p style="text-align: right;">Page 148</p> <p>1 boundaries of the reservation. So in my opinion, we 2 wouldn't have even had the ability to enforce any laws 3 off the reservation, you know, and only in a couple of 4 instances when there was that imminent threat of life, 5 would we even consider that. 6 Q. How about all the other Department of 7 Interior law enforcement people you've told me about? 8 Were they also limited the same way that the BIA 9 considered itself limited? 10 A. I would say yes, they were there at our 11 request working under our authorities. I'm not aware 12 of any special authorities that they have to enforce 13 laws outside of their area or where they've received, 14 you know, cross-deputization. 15 (Deposition Exhibit 758 was remotely 16 introduced and provided electronically to the court 17 reporter.) 18 Q. Okay. If we could go to Exhibit 758, 19 please. So this one is a September 4 e-mail as well. 20 In fact, it's Mr. Roberts from the Department of 21 Interior responding to your request whether your draft 22 e-mail response was okay. And he said, "I would tweak 23 it as set forth below if you are comfortable with the 24 language." 25 A. All right.</p>
<p style="text-align: right;">Page 147</p> <p>1 appealing to you for help because of your position? 2 A. Well, I couldn't say that was what -- I 3 don't know if they sent that to everybody. And we 4 hadn't really joined the effort on the North Dakota 5 side to bring federal officers to help off the 6 reservation. That was never something that we did. 7 You know, that wasn't the intent of why 8 we were there. You know, ours was within the 9 boundaries of the reservation. And any time I needed 10 officers to that point and beyond from Interior, you 11 know, that request was always met with support. So I 12 couldn't tell you whether or not he sent that to 13 everybody or if that's what their thought process was. 14 Q. Whose decision was it to limit the BIA's 15 jurisdiction to just the confines of the reservation? 16 A. Congress, I would imagine. 17 Q. I'm not talking about what a law says, 18 but I'm wondering why the Department of Interior 19 didn't allocate BIA resources outside of the Indian 20 tribes' boundaries when the event was a concurrent 21 one? 22 A. I'm not sure that it ever was completely 23 concurrent. And, again, I would just -- I'm not 24 trying to be argumentative with you, but that's the 25 law, is that our jurisdiction lies within the exterior</p>	<p style="text-align: right;">Page 149</p> <p>1 Q. Do you want to read that for a moment and 2 tell me -- 3 A. Sure. 4 Q. -- what the difference was. What was the 5 point that the assistant secretary was trying to 6 update from your draft? 7 MR. SCARPATO: Objection; foundation. 8 A. Well, I would say they're virtually the 9 same. I think it's wordsmithing and probably more 10 eloquently written. It says the same thing, in my 11 opinion. Doesn't deviate. And I don't disagree with 12 what he's suggesting there. 13 (Deposition Exhibit 759 was remotely 14 introduced and provided electronically to the court 15 reporter.) 16 Q. (BY MR. SEBY) Okay. If we could go to 17 Exhibit 759, please. So this is what you sent to 18 Mr. Bernstein and copied Pete Darren. Who's Pete 19 Darren? 20 A. Pete Darren was the congressional liaison 21 for the Bureau of Indian Affairs. 22 Q. Okay. And so it looks like you didn't 23 use Mr. Roberts' revised suggestion. Why was that? 24 A. I'm not sure. I don't know. To me they 25 look pretty similar with some minor tweaks. I don't</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 150</p> <p>1 know why I didn't use it. Apparently, I did not.</p> <p>2 Q. How come the font is funny -- different</p> <p>3 funny, but funny with this one --</p> <p>4 A. I'm not sure. I couldn't tell you. I'm</p> <p>5 not sure.</p> <p>6 Q. Who else gave you input on your draft?</p> <p>7 A. I didn't remember that the assistant</p> <p>8 secretary had even. So I don't know. Like I said,</p> <p>9 this looks how I would have written it, and apparently</p> <p>10 what I stuck with. So I don't know. The assistant</p> <p>11 secretary was two levels higher than me and if I</p> <p>12 decided to go with my own, I suspect I was fairly</p> <p>13 comfortable with that. I don't know that anybody</p> <p>14 helped me.</p> <p>15 (Deposition Exhibit 760 was remotely</p> <p>16 introduced and provided electronically to the court</p> <p>17 reporter.)</p> <p>18 Q. Okay. Looks like somebody did, at least</p> <p>19 one person. I was just asking you who else had a hand</p> <p>20 in your paragraph response to the senator's chief of</p> <p>21 staff. 760, please. So David Lawrence in the BIA is</p> <p>22 sending on the Sunday evening report to you and to</p> <p>23 Mr. Thompson and others. And you replied back to --</p> <p>24 well, what the Sunday evening report is -- we can go</p> <p>25 to the next page, please. You'll see that it's this</p>	<p style="text-align: right;">Page 152</p> <p>1 boilerplate language and we missed it that time, but I</p> <p>2 do see the area that I sort of wanted to highlight and</p> <p>3 emphasize was the camp sizes, but it's clearly not</p> <p>4 marked in red. That may have just been an oversight</p> <p>5 on our part.</p> <p>6 Q. Okay. But there is red ink or red print</p> <p>7 on here and it says across the top and across the</p> <p>8 bottom --</p> <p>9 A. Yeah. I think -- my guess is that you</p> <p>10 would find that on every single one of them. So I</p> <p>11 don't know.</p> <p>12 Q. Well, if red is there, why is it not</p> <p>13 somewhere else?</p> <p>14 A. Yeah. That's a good point. I think it</p> <p>15 was probably an oversight on our part.</p> <p>16 Q. Okay. So your reply to getting that</p> <p>17 document went to the assistant secretary of Interior</p> <p>18 and some other Department of Interior people. And it</p> <p>19 says the "most significant piece is that the camps,</p> <p>20 plural, have grown to 4000 to 4500." Why are you</p> <p>21 taking it on to report camps, plural, which would</p> <p>22 include the camps on the Corps property, given the</p> <p>23 size --</p> <p>24 A. That's a good question. That was a</p> <p>25 significant thing to us. I mean, I had -- you know,</p>
<p style="text-align: right;">Page 151</p> <p>1 document I was asking you about. It's the Dakota</p> <p>2 Access Pipeline protest Office of Law Enforcement and</p> <p>3 Security -- that's the Department of Interior, of</p> <p>4 course -- August 30, 2016.</p> <p>5 A. Okay.</p> <p>6 Q. So that summary is -- well, it says</p> <p>7 August 30, 2016. The summary is updated as of</p> <p>8 September 4. And you say, "All updates are</p> <p>9 highlighted in red." I see red on here, but it says</p> <p>10 red only as to law enforcement sensitive. Where is</p> <p>11 the actual text in the document that's an update that</p> <p>12 appears in red?</p> <p>13 A. Well, I can't see the whole document.</p> <p>14 Q. Let's scroll through it. I'm not asking</p> <p>15 you to read it. I'm just asking you to point out --</p> <p>16 A. Well, you asked me what was red and I</p> <p>17 couldn't see the whole document.</p> <p>18 Q. We're going to go page by page, not to</p> <p>19 read it, but tell me where --</p> <p>20 A. Okay.</p> <p>21 Q. -- I'm missing red updates.</p> <p>22 A. Okay. Yeah. I don't see any red on this</p> <p>23 one. So that may have been boilerplate language. Can</p> <p>24 you go back to the top of that page? The first top of</p> <p>25 the document, I guess. Yeah. That may have just been</p>	<p style="text-align: right;">Page 153</p> <p>1 probably at the height of any of the days that we were</p> <p>2 there we may have had, you know, 40 officers tops.</p> <p>3 And half of them would have been off duty and resting</p> <p>4 at hotels or wherever.</p> <p>5 So, you know, because of the proximity to</p> <p>6 the reservation and the proximity to the jurisdiction</p> <p>7 that we have responsibility for patrolling, the</p> <p>8 proximity for a group of any size to, you know, get</p> <p>9 food or fuel or any of those kind of things,</p> <p>10 absolutely the size of the camps that were on the</p> <p>11 other side of the Cannonball River had an impact on</p> <p>12 what we were doing, certainly, and sort of the thought</p> <p>13 process on how many officers that we might need.</p> <p>14 We were dealing with a resident</p> <p>15 population. We had homes and schools and businesses</p> <p>16 within, you know, very, very short distance from where</p> <p>17 this growing camp was at. So those kind of things</p> <p>18 certainly factored into our thought process in trying</p> <p>19 to prepare. You know, as you said earlier, you know,</p> <p>20 a good number of those people were not from the area</p> <p>21 and a good number of those people were non-Indian.</p> <p>22 And so even on the reservation, my</p> <p>23 ability to enforce law on non-Indians is severely</p> <p>24 limited. So, you know, the size of those camps that</p> <p>25 were growing in close proximity to where our</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 154</p> <p>1 jurisdiction boundary started played a pretty</p> <p>2 significant part. So I was probably wanting to make</p> <p>3 sure folks knew that camps are getting bigger and that</p> <p>4 we might be asking for more help.</p> <p>5 Q. Do you recall the very first exhibit we</p> <p>6 talked about was people letting you know about the</p> <p>7 protests, which would have included not lands</p> <p>8 associated with the Indian reservation on August 14,</p> <p>9 2016? Do you recall that generally?</p> <p>10 A. The first document that you showed me</p> <p>11 today?</p> <p>12 Q. Yes.</p> <p>13 A. I don't exactly remember what you're</p> <p>14 referring to.</p> <p>15 Q. It's Exhibit 739 and it's dated</p> <p>16 August 14. And so all I'm going to ask you is to fast</p> <p>17 forward a couple of weeks, really.</p> <p>18 A. Well, I will say a couple of weeks were</p> <p>19 16-, 17-, 18-hour days. So a lot happened in between</p> <p>20 those. So I just want to be clear on that. It's not</p> <p>21 an eight-hour day and you can go home. They were</p> <p>22 very, very long days.</p> <p>23 Q. Okay. I didn't even raise that topic.</p> <p>24 So I don't want to diverge from the question asked.</p> <p>25 I'm just saying that apparently you were first aware</p>	<p style="text-align: right;">Page 156</p> <p>1 at the time -- I don't know if he's retired or not,</p> <p>2 but he was the director of the Office of Tribal -- I</p> <p>3 want to -- I think it was Office of Tribal Justice.</p> <p>4 So sort of the DOJ clearinghouse for all things Indian</p> <p>5 country would come through Tracy's office.</p> <p>6 Q. Okay. So the letter -- or this e-mail</p> <p>7 string starts from a gentleman who's in North Dakota</p> <p>8 Congressman Kevin Cramer's office chief of staff, Mark</p> <p>9 Gruman, and he's writing to Mr. Myers attaching a</p> <p>10 letter from Congressman Cramer. And that letter was</p> <p>11 then forwarded on to you and Mr. Toulou.</p> <p>12 Let's go look at the letters now. So</p> <p>13 there's an earlier letter that's the next one and then</p> <p>14 we'll read them in chronological order. The first one</p> <p>15 from the congressman is a letter of August 18, 2016,</p> <p>16 so right when the protests started occupying Corps of</p> <p>17 Engineers land and some of the reservation land.</p> <p>18 He's writing to the governor of North</p> <p>19 Dakota and says, "Governor Dalrymple, as you well know</p> <p>20 the highest priority of any government is public</p> <p>21 safety. With state and local law enforcement</p> <p>22 resources becoming increasingly inadequate given the</p> <p>23 enormity of the security threat to the Dakota Access</p> <p>24 Pipeline, I respect your consideration of further</p> <p>25 support to insure the safety of the workers and our</p>
<p style="text-align: right;">Page 155</p> <p>1 of all of the protests and where they were located on</p> <p>2 August 14. Here, now fast forward a couple of weeks</p> <p>3 to September 4, so three weeks forward, and isn't it</p> <p>4 rather remarkable that in that short period of time</p> <p>5 the camps grew so dramatically, camp support?</p> <p>6 A. Yes, absolutely remarkable that they grew</p> <p>7 as quick as they did. Yeah, for sure. We were</p> <p>8 surprised every day as they were growing how quickly</p> <p>9 they grew.</p> <p>10 Q. Why did they grow so fast?</p> <p>11 A. Well, I've got speculation on it. I</p> <p>12 think social media played a big part on it. I think</p> <p>13 you had celebrities that were, you know, voicing their</p> <p>14 opinions, and that drew attention and drew people</p> <p>15 thoughts on it.</p> <p>16 (Deposition Exhibit 761 was remotely</p> <p>17 introduced and provided electronically to the court</p> <p>18 reporter.)</p> <p>19 Q. If we could go to Exhibit 761. And this</p> <p>20 is an e-mail on September 7 from Gary Delorme with the</p> <p>21 United States Department of Justice, the attorney --</p> <p>22 the U.S. Attorney in North Dakota's office. And it's</p> <p>23 from Mr. Delorme, as I said, to you and Ms. Tracy</p> <p>24 Toulou. Who is Ms. Toulou?</p> <p>25 A. Mr. Tracy Toulou is a DOJ employee. He</p>	<p style="text-align: right;">Page 157</p> <p>1 citizens. Therefore, please know that you have my</p> <p>2 full support for any federal law enforcement</p> <p>3 assistance you may request to help insure public</p> <p>4 safety. Sincerely, Kevin Cramer, Member of Congress,"</p> <p>5 copied to the FBI, United States Marshal Service,</p> <p>6 BATF, BIA, and the National Park Service.</p> <p>7 And Congressman Cramer writes three weeks</p> <p>8 later on September 7 to Mr. Myers, the U.S. Attorney</p> <p>9 for North Dakota, and says, Mr. Myers, I sent that</p> <p>10 letter to Governor Dalrymple giving him my full</p> <p>11 support for law enforcement systems. "Among other</p> <p>12 federal agencies, copies of that letter were provided</p> <p>13 to agencies under the U.S. Department of Justice.</p> <p>14 Unfortunately, on September 4, several hundred</p> <p>15 protesters on foot and horseback trespassed upon</p> <p>16 private property and assaulted civilian security</p> <p>17 officers and their K-9 units. In the words of Morton</p> <p>18 County Sheriff Kirchmeier, quote, individuals crossed</p> <p>19 onto private property and accosted private security</p> <p>20 officers with wooden posts and flag poles, end quote,</p> <p>21 characterizing the event as, quote, more like a riot</p> <p>22 than a protest, end quote, and further stating, quote,</p> <p>23 any suggestion that today's event was a peaceful</p> <p>24 protest, is false, end quote." Then he goes on to</p> <p>25 reiterate his request for law enforcement for North</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 158</p> <p>1 Dakota. "Only an overwhelming law enforcement 2 presence will stem the tide of future lawlessness." 3 And so this letter was shared with you by 4 the U.S. Attorney's Office in North Dakota. Why do 5 you think they wanted to get to you and to Mr. Toulou, 6 who is the director of tribal justice for the 7 Department of Justice? 8 A. Yeah. I don't know. I mean, obviously 9 we would be an obvious federal, you know, law 10 enforcement organization in that area, but I will tell 11 you my sole focus, with the resources that I could 12 bring to bear, was providing public safety in the area 13 that we had jurisdiction in. And it wasn't new 14 jurisdiction. It was the Standing Rock Sioux Tribe 15 where we had a longstanding trust responsibility to 16 provide law enforcement. 17 So my focus was completely there. And, 18 you know, at any -- and, you know, I completely agree 19 with his statement that, you know, the first order of 20 everything that we were doing down there was to make 21 sure people were safe. That was the first order, but 22 I will tell you at any given time -- and I don't know 23 the numbers. 24 I'm sure that you could pull the numbers, 25 but my ability to muster law enforcement for an area</p>	<p style="text-align: right;">Page 160</p> <p>1 So I know that's a long -- and you don't 2 like those, neither does Bill, I'm sure, but that's my 3 perspective on that one, is I think because we were 4 already down there, that's why they put us on that 5 list. I didn't have anybody I could send. 6 Q. Okay. I appreciate that. I'm glad your 7 memory is good on that regard. 8 A. Well, I will tell you, that is the one 9 thing that my memory is crystal clear on, is that our 10 constant thought was how do we prevent this from 11 blowing into an all-out mayhem. So that is the one 12 thing that my mind is not foggy on at all. 13 Q. How did you do that? What did you do to 14 prevent this event from blowing into all-out mayhem? 15 A. Well, yeah. That is my -- that was my 16 fear. I will tell you that I think that, you know, 17 there was a concerted effort by us to remain 18 professional, the law enforcement there and the BIA to 19 remain professional, not only with the people that 20 were coming to the area, but with our partners, our 21 law enforcement partners, Morton County Sheriff's 22 Department. 23 I will tell you, I think Sheriff 24 Kirchmeier probably contributed to it remaining calm, 25 by his willingness -- him and the colonel and the</p>
<p style="text-align: right;">Page 159</p> <p>1 that we have responsibility for probably never 2 exceeded 40 officers at any given time, maybe 50. I 3 don't remember exactly the numbers we had, but that 4 was pale in comparison to what the Morton County 5 sheriff was able to pull with his, you know, partners 6 across the state and the national guard and the state 7 police. 8 So to think that I had any extra 9 resources to provide anywhere besides the area that we 10 had jurisdiction, it just wasn't an option. And, you 11 know, as the groups grew bigger and bigger and the 12 concern of, you know, forcefully removing -- that 13 terminology got thrown around a lot. And it was 14 pretty apparent that if that group was going to move, 15 they were going to move my direction. 16 And so sparing any officers for any place 17 else other than where we had jurisdiction and pretty 18 immediate potential threat, I just didn't have it. So 19 I can see where, you know, the Bureau of Indian 20 Affairs would be somebody that would get copied on 21 there because we had people there, but we also had a 22 huge responsibility active in that area and were 23 pulling officers from our own organization to 24 supplement the staff that was permanently located at 25 Standing Rock.</p>	<p style="text-align: right;">Page 161</p> <p>1 general, their willingness to continue to meet with 2 people not only, you know, in Morton County. People 3 that were there protesting, he met with them there. 4 He met with them at the bridge. He met with them 5 close to the camp. 6 And I think that, you know, sort of a 7 tempered response, you know, to continue to 8 communicate, I really think that's what it was, 9 because there were so many people there -- and I'm 10 sure you've seen the videos of what happened down 11 there. But, you know, there wasn't really enough law 12 enforcement on our side to maintain that. 13 Had that spun around and come our 14 direction, we would have been in a lot of trouble. So 15 I think good communication by the sheriff and 16 patience, and ultimately the concern of the Missouri 17 River flooding is really, I think, the biggest piece 18 of that that caused people to leave. I'm going to 19 stop talking and let you ask your questions. 20 (Deposition Exhibit 762 was remotely 21 introduced and provided electronically to the court 22 reporter.) 23 Q. Thank you. Let's go to Exhibit 762. 24 Would you take a moment and read this e-mail that 25 Ms. Greta Baker, internal affairs director for the</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 162</p> <p>1 Standing Rock Sioux Tribe, sent to you along with</p> <p>2 Colonel Gerhart from North Dakota, General Dohrmann.</p> <p>3 And it was sent from Ms. Baker to those individuals</p> <p>4 and yourself and then a woman named Rosa Salamanca,</p> <p>5 United States Department of Justice. Who is</p> <p>6 Ms. Salamanca?</p> <p>7 A. I have no idea. The name doesn't even</p> <p>8 ring a bell to me.</p> <p>9 Q. Never heard of her?</p> <p>10 A. Her name doesn't -- oh, you know what?</p> <p>11 Maybe. Maybe I have. I'm going to ask you if this is</p> <p>12 right. And maybe it's not. But I know DOJ sent</p> <p>13 somebody from the -- I can't remember the office, but</p> <p>14 resolution something to come down there and try to</p> <p>15 negotiate some sort of something. There's a DOJ</p> <p>16 officer. Is that who that is? Can I just ask you</p> <p>17 that? I don't remember exactly, but as I kind of went</p> <p>18 through there, seems like maybe that's who she was.</p> <p>19 Q. Well, I can see what you can see and it</p> <p>20 says "rosa.salamanca@usdoj.gov."</p> <p>21 A. Yeah. Fair enough.</p> <p>22 Q. You're not really making a guess. It</p> <p>23 says it right there in her e-mail.</p> <p>24 A. Well, I know she's with DOJ. I see that.</p> <p>25 I clearly see that. And you had mentioned that when</p>	<p style="text-align: right;">Page 164</p> <p>1 So I don't -- I do remember something</p> <p>2 about this. I don't remember the details of it. And</p> <p>3 it seems like it was something about, you know, they</p> <p>4 would have four days to go ahead and get packed up and</p> <p>5 get out and law enforcement wouldn't come into the</p> <p>6 camps. But again, this is all a little bit fuzzy to</p> <p>7 me, but I think that's what this is.</p> <p>8 Q. This is an official with the tribe that</p> <p>9 you've got jurisdiction over. So that's why I was</p> <p>10 asking you about it.</p> <p>11 A. Well, you know, jurisdiction over and</p> <p>12 input into -- I don't know if I've got jurisdiction</p> <p>13 over. We are invited by tribes to come in and provide</p> <p>14 law enforcement. There's a couple ways. They can do</p> <p>15 it themselves through their capacity to do 630</p> <p>16 contracting or they can say, We want you to do it.</p> <p>17 So, you know, to say "jurisdiction over," I wouldn't</p> <p>18 refer to me having jurisdiction over Greta Baker or</p> <p>19 the chairman or the council.</p> <p>20 Q. No, but you do over the Standing Rock</p> <p>21 Sioux Reservation; correct?</p> <p>22 A. Well, again, I mean, context there is I</p> <p>23 can't go in and tell the tribe, This is what you're</p> <p>24 going to do and, Greta Baker, you're going to do this</p> <p>25 and, Chairman, you're going to do this, Council,</p>
<p style="text-align: right;">Page 163</p> <p>1 you read it. But I don't remember what her role was.</p> <p>2 And then as I'm thinking, I do know that they sent a</p> <p>3 team -- I say a "team"; it was, I think, her and</p> <p>4 another person maybe -- to come and try to meet with,</p> <p>5 you know, who that week was being identified as the</p> <p>6 leader of these camps.</p> <p>7 And it always turned out to be that's not</p> <p>8 really a role that anybody had within the camps to</p> <p>9 speak for the group as a whole. But it seems like</p> <p>10 that's who that was possibly. But I'm speculating.</p> <p>11 Q. Okay. So this e-mail from Ms. Baker,</p> <p>12 you've read it; right?</p> <p>13 A. I've read it, yes.</p> <p>14 Q. She mentions, "The Tribe is not in</p> <p>15 agreement with a four day grace period at any time."</p> <p>16 What was this grace period concept all about?</p> <p>17 A. I'm not sure what that is unless it</p> <p>18 was -- you know, there was always conversation about</p> <p>19 the Morton County Sheriff's Department and law</p> <p>20 enforcement coming in and removing them, the</p> <p>21 protesters. And like I said, we would -- I say "we"</p> <p>22 because I was invited to attend a couple of those with</p> <p>23 the sheriff and the colonel and the general, where</p> <p>24 they would talk to who they thought was the leader of</p> <p>25 the group.</p>	<p style="text-align: right;">Page 165</p> <p>1 you're going to do that. It's -- law enforcement,</p> <p>2 we're really, because of treaties and trust</p> <p>3 responsibility, more invited in to provide law</p> <p>4 enforcement services. The tribes can do it</p> <p>5 themselves. So I don't want you to get the impression</p> <p>6 that when I tell Greta Baker to do something that she</p> <p>7 has to do it.</p> <p>8 Q. I don't have that impression, nor was I</p> <p>9 suggesting that in the question to you. I was just</p> <p>10 saying, you know, you've been very consistent. You</p> <p>11 remembered your limited role and defined that to me.</p> <p>12 And this is a person from that reservation, an</p> <p>13 official -- she's the internal affairs director --</p> <p>14 telling you, by copying you on an e-mail from her,</p> <p>15 that she's talking about a four-day grace period</p> <p>16 concerning a protest camp. And I'm asking you what</p> <p>17 this is all about.</p> <p>18 A. Yeah. So that's -- to the best of my</p> <p>19 recollection, that's what it was about.</p> <p>20 (Deposition Exhibit 763 was remotely</p> <p>21 introduced and provided electronically to the court</p> <p>22 reporter.)</p> <p>23 Q. Okay. All right. If we could go to</p> <p>24 Exhibit -- let's see. Exhibit 763, please. Would you</p> <p>25 take a moment and look this over, please. It's an</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 166</p> <p>1 e-mail from you to Mr. Toulou and Ms. Salamanca.</p> <p>2 You're communicating with her.</p> <p>3 A. Okay. Okay. I've read through that</p> <p>4 page.</p> <p>5 Q. It spills over on the next one just a</p> <p>6 bit.</p> <p>7 A. Okay. So that is what role Rosa</p> <p>8 Salamanca, Rosa, community relations services. Okay.</p> <p>9 I've read through.</p> <p>10 Q. Okay. So this is your e-mail; right?</p> <p>11 A. Yes.</p> <p>12 Q. Did you write this?</p> <p>13 A. I'm sure that I did. I mean, I'm sure</p> <p>14 that I did.</p> <p>15 Q. How did you know to write it? Did people</p> <p>16 give you input for doing so, or what?</p> <p>17 A. Possibly. Possibly. It's very possible.</p> <p>18 Q. You think that at least as of the time</p> <p>19 you wrote this, September 11, 2016, you were aware of</p> <p>20 the things that you're reporting; correct?</p> <p>21 A. Yeah, I think so. Yeah, I think this --</p> <p>22 I do. And this was to Tracy Toulou, I guess, on my</p> <p>23 observations of Rosa and what she had done there and</p> <p>24 the luck that she had had.</p> <p>25 Q. The luck that she had had?</p>	<p style="text-align: right;">Page 168</p> <p>1 Phyllis Young, who is attributed by you to Standing</p> <p>2 Rock Sioux Tribe, "emphasized that the camps, plural,</p> <p>3 were now being referred to as a community." Do you</p> <p>4 think that you meant that the Standing Rock Sioux</p> <p>5 Tribe person, Phyllis Young, whoever she is, is</p> <p>6 correct that the camps were a community?</p> <p>7 A. I don't know because, as I recall,</p> <p>8 Phyllis Young wasn't speaking on behalf of the tribe.</p> <p>9 She was speaking on behalf of herself. I think that</p> <p>10 she owned some land or had some land in her possession</p> <p>11 there on the reservation and was allowing people to</p> <p>12 camp there.</p> <p>13 And so I think there was a section of the</p> <p>14 protests that looked at her as, you know, quasi-leader</p> <p>15 there. And so, you know, our effort was to talk to as</p> <p>16 many people as we could to get as good an idea of what</p> <p>17 was going on as we could. So although I probably</p> <p>18 wouldn't put much stock in what Phyllis Young said, I</p> <p>19 did talk to her and passed along information that she</p> <p>20 passed along. That's what this looks like to me.</p> <p>21 Q. Yeah. You're spending quite a bit of</p> <p>22 time reporting to Mr. Toulou and Ms. Salamanca.</p> <p>23 A. I don't think I'm reporting to them. I</p> <p>24 think I'm informing them, but there is no, you know,</p> <p>25 line of authority there. I know Tracy probably was</p>
<p style="text-align: right;">Page 167</p> <p>1 A. Well, or the lack of -- you know, "luck"</p> <p>2 is my terminology, but good fortune, able to move the</p> <p>3 process along. And I don't think she had much by way</p> <p>4 of, you know, moving the process along. I think she</p> <p>5 went there and wasn't able to identify any, you know,</p> <p>6 leader there also that could speak on behalf of the</p> <p>7 larger community.</p> <p>8 Q. I don't see you mention Ms. Salamanca in</p> <p>9 your e-mail at all until the very last sentence.</p> <p>10 A. Okay.</p> <p>11 Q. Where are you getting all of that? I'm</p> <p>12 asking about this e-mail and you're --</p> <p>13 A. Well, maybe I'm going down a rabbit hole</p> <p>14 of just remembering sort of -- now that I remember</p> <p>15 what she did, I did see that she's returning home and</p> <p>16 will continue to monitor the situation as needed. We</p> <p>17 didn't get the results out of it that we wanted with</p> <p>18 her being there. So I'm just basing that off what I</p> <p>19 read here.</p> <p>20 Q. Okay. Let's stick to your e-mail,</p> <p>21 please. In your e-mail you talk about getting</p> <p>22 updates. Again, there's no red in here. So I don't</p> <p>23 know what you're updating, but I can tell what the</p> <p>24 whole thing is that you're sending along.</p> <p>25 And second paragraph you say that this</p>	<p style="text-align: right;">Page 169</p> <p>1 the one that either suggested or assisted us in</p> <p>2 getting Rosa to -- I wasn't even familiar that that</p> <p>3 office existed and was probably informing him of my</p> <p>4 observations of the previous few days and the</p> <p>5 conversations that we had.</p> <p>6 Q. You said that Mr. Toulou "assisted us."</p> <p>7 So I take it that means you?</p> <p>8 A. Well, I'm assuming that he did. I mean,</p> <p>9 he would have been the DOJ point of contact that I</p> <p>10 would have talked to the most. And I'm speculating</p> <p>11 here that he was the one that must have mentioned</p> <p>12 community relations to me. He's DOJ. She was DOJ. I</p> <p>13 wasn't aware of that office even existing prior to</p> <p>14 this.</p> <p>15 Q. Thank you. I was asking earlier about</p> <p>16 did you agree with Ms. -- is Phyllis Young a woman, I</p> <p>17 take it?</p> <p>18 A. Yes.</p> <p>19 Q. Do you agree with Ms. Young's comment</p> <p>20 that the camps are now being referred to as a</p> <p>21 community, camps plural?</p> <p>22 A. Well, I wouldn't know. I mean, they</p> <p>23 definitely had, we later learned, you know, built a</p> <p>24 quasi school and a quasi these kind of things. So</p> <p>25 that would be a question for the campers, but they</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 170</p> <p>1 were there a long time. And, I mean, I don't know. 2 Probably they did look at themselves as a community. 3 I certainly didn't look at them as a community. I 4 looked at them as people that were where they 5 shouldn't be and needed to go. 6 Q. Okay. So if you come down here after -- 7 in your own e-mail after you are updating people about 8 the report that Joan Baez is coming to provide a 9 concert along with Carlos Santana -- did that ever 10 happen, by the way? 11 A. You know, I don't know if Carlos Santana 12 ever showed up. And I don't know who the other guy 13 is, to be honest with you. I wouldn't know much about 14 hip-hop, but there were plenty of celebrities that did 15 show up. 16 Q. So after that reference to Ms. Baez and 17 Mr. Santana, you say that "the group extended an 18 invitation to BIA law enforcement to visit the Seven 19 Council Fires Camp so the community there could see 20 them and thank them." And she asked that you come in 21 civilian clothes and "the invitation was not open to 22 civilian law enforcement. Young said that she was an 23 advocate of BIA services as her family members had 24 worked for BIA law enforcement." 25 So what was that all about?</p>	<p style="text-align: right;">Page 172</p> <p>1 me when that conversation happened, I'm sure that I 2 did. Now, it was my absolute, you know, position that 3 we were going to have as many conversations as we 4 could with people. Didn't need to be in the camps. 5 You know, I didn't feel like it was the right move to 6 go down there in the camps when the camps were 7 camping, only because I was trying not to incite some 8 sort of reaction from them, which we saw many, many 9 times on the other side of the river where law 10 enforcement would come in and it would elicit a 11 reaction -- a negative reaction from all of these 12 protesters. 13 So we were careful not to do that, but we 14 did make it a point to have as many conversations as 15 we could with people as we were out and about. You 16 know, either they were passing through, you know, 17 checkpoints or they were at the casino and our folks 18 were there. To go down into any camps, I don't recall 19 doing that. And I can't imagine that I would allow 20 anyone else to do it. 21 (Deposition Exhibit 765 was remotely 22 introduced and provided electronically to the court 23 reporter.) 24 Q. Okay. I heard you now. I get it. So if 25 we could go to Exhibit 765, please. Would you take a</p>
<p style="text-align: right;">Page 171</p> <p>1 A. I don't know. I would have not even 2 entertained that invitation. I don't remember ever 3 going down there in that way and would not have 4 entertained that to go down there. So I don't know. 5 I think, you know, there was a different approach. I 6 will tell you there was a different approach. We 7 didn't have the confrontations that unfortunately 8 Morton County and our partners on that side had, but 9 our approach was different. 10 We weren't seeing those same kind of 11 things. And we took a more measured approach, not 12 push conversation. And, you know, so I can see where 13 she might think that I would entertain going down 14 there to speak to them, but that would not have been 15 something I would have been willing to do or allow any 16 of our folks to do, go down into those camps. 17 Q. So it didn't happen, is what you're 18 saying? 19 A. I don't recall it happening at all, no. 20 Q. Did you ever tell any of your BIA 21 colleagues, Hey, we're not doing this? 22 A. Probably. I mean, going down into the 23 camp and talking? 24 Q. Yeah. 25 A. I mean, if there was anybody around with</p>	<p style="text-align: right;">Page 173</p> <p>1 moment and look this e-mail over, please. It's an 2 e-mail from Ms. Nekia Hackworth, who is the senior 3 counsel to the deputy attorney general and executive 4 director, Financial Fraud Enforcement Task Force, 5 Office of the Deputy Attorney General, U.S. Department 6 of Justice, Washington D.C. 7 A. I've seen it and read it. 8 Q. All right. And she is inviting a number 9 of people from the Department of Justice and the Army 10 Corps of Engineers and the U.S. Attorney for North 11 Dakota, the FBI, and you from the BIA. And it's -- 12 the subject line is "Standing Rock: DOJ, Interior, 13 and Army Corps Call regarding Special Use Permit." Do 14 you see that? 15 A. Yeah. 16 Q. Thank you everyone -- "Everyone - thanks 17 very much for agreeing to discuss law enforcement and 18 public safety matters relating to Standing Rock's 19 Special Use Permit." She then gives information for 20 participating in a call that afternoon. Did you 21 participate in that call? 22 A. I don't recall if I did or not. I don't 23 remember being on that call, but I might have been on 24 it. There's a lot of people higher up than me. So I 25 wouldn't have had much to say on that call if I was on</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 174</p> <p>1 it, but I just can't recall if I was on there or not.</p> <p>2 Q. This is another instance where the</p> <p>3 Department of Justice -- a representative from the</p> <p>4 department is inviting you to participate as a federal</p> <p>5 representative along with other federal</p> <p>6 representatives and you can't recall if you joined the</p> <p>7 call, maybe you did, maybe you didn't. A lot of your</p> <p>8 answers are both.</p> <p>9 A. Well, I'll tell you, it's the truth. I</p> <p>10 don't remember. You know, so I don't want to say I</p> <p>11 did and I don't want to say I didn't because I really</p> <p>12 don't remember. There were -- there was so much going</p> <p>13 on there.</p> <p>14 And I will tell you, as things</p> <p>15 progressed, my concern over decisions that I didn't</p> <p>16 really have any major control over -- I was really</p> <p>17 focusing in on providing law enforcement, public</p> <p>18 safety there. Clearly there are a lot of other people</p> <p>19 who know the law, you know, when it comes to land way</p> <p>20 better than I do. So I had a role there, and it was</p> <p>21 not to make decisions on land status. It was really</p> <p>22 to maintain public safety.</p> <p>23 Q. Mr. Cruzan, I'm not asking about land</p> <p>24 status.</p> <p>25 A. I understand that, but you're asking me</p>	<p style="text-align: right;">Page 176</p> <p>1 very possible that I was on that call. You know, I</p> <p>2 don't recall if I was or not, and I didn't take an</p> <p>3 active role in it if I was on it.</p> <p>4 Q. So who's your senior leadership that's on</p> <p>5 this invite along with you?</p> <p>6 A. Well, I see Larry Roberts on there. I</p> <p>7 guess that's the only person I see on here. I'm</p> <p>8 looking through to see if I see Mike Black on there.</p> <p>9 I don't see him, but I do see Larry Roberts, who is my</p> <p>10 boss's boss. So that's who I'm referring to.</p> <p>11 Q. So did you communicate with Mr. Roberts,</p> <p>12 Hey, do you want me to be on this call since you're my</p> <p>13 senior leadership or should I or what do you want to</p> <p>14 do? You asked him on a draft e-mail to respond to the</p> <p>15 senator. Why wouldn't you --</p> <p>16 A. I've answered this question. It's</p> <p>17 irritating to you because I've said it three times,</p> <p>18 but I don't remember if I was on that call. I may</p> <p>19 have been and I may not have been. I just don't</p> <p>20 recall. I don't remember. You did ask me. That is</p> <p>21 exactly what you asked me, if I said, Hey, Larry, do</p> <p>22 you want me to be on this call. I don't remember</p> <p>23 that.</p> <p>24 Q. Okay.</p> <p>25 A. I don't know. I don't know.</p>
<p style="text-align: right;">Page 175</p> <p>1 to remember a lot of stuff that I just -- I'm telling</p> <p>2 you, there were so many things going on, I don't</p> <p>3 remember if I was on that call or not. And so I don't</p> <p>4 want to say that I was. I don't want to say that I</p> <p>5 wasn't. I don't remember if I was or not.</p> <p>6 Q. Okay.</p> <p>7 A. That's just --</p> <p>8 Q. I don't need to hear that a third time.</p> <p>9 So let me just ask you, this call is a discussion of</p> <p>10 law enforcement and public safety matters relating to</p> <p>11 Standing Rock's special use permit. So this is more</p> <p>12 germane to you than something -- some just general</p> <p>13 Corps of Engineers permit. This relates to the very</p> <p>14 reservation that you've got -- the reason why you're</p> <p>15 in North Dakota. So based upon that, you don't recall</p> <p>16 if you participated?</p> <p>17 MR. SCARPATO: Objection.</p> <p>18 A. Same answer that I gave you three times</p> <p>19 now.</p> <p>20 Q. (BY MR. SEBY) All right. Notwithstanding</p> <p>21 that it pertained to Standing Rock?</p> <p>22 A. I will tell you -- I will tell you this,</p> <p>23 and we've gone through it several times today, there</p> <p>24 was a lot of briefings being provided to my senior</p> <p>25 leadership up and they're all on this invite. So it's</p>	<p style="text-align: right;">Page 177</p> <p>1 Q. You don't remember if you were on the</p> <p>2 call and you don't remember discussing it with</p> <p>3 anybody?</p> <p>4 A. That's right. That's right.</p> <p>5 Q. Whether it was Mr. Roberts or anybody</p> <p>6 else?</p> <p>7 A. That's correct.</p> <p>8 Q. Okay. How about discussing the Standing</p> <p>9 Rock special use permit with anybody? Just kind of</p> <p>10 same approach, you were, Hey, this doesn't pertain to</p> <p>11 me?</p> <p>12 A. I wouldn't say it doesn't pertain to me,</p> <p>13 but it wasn't something I would be able to give a lot</p> <p>14 of input into. It's not my area. So I don't recall</p> <p>15 any specific conversation about that, asking my</p> <p>16 opinion on it.</p> <p>17 Q. So your jurisdiction is limited to the</p> <p>18 Standing Rock Sioux Tribe Reservation; correct?</p> <p>19 A. Well, no. For this incident, yes.</p> <p>20 Q. Thank you. And so when another agency</p> <p>21 proposes to issue a land use permit to an entity to</p> <p>22 use property on the very reservation that you've got</p> <p>23 jurisdiction over, you still don't care?</p> <p>24 A. That's not what I said.</p> <p>25 Q. So why don't you react to my question,</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 178</p> <p>1 then?</p> <p>2 A. Once a decision is made on that, I'm</p> <p>3 going to be informed and I certainly care, but I will</p> <p>4 tell you I care much more about the safety of the</p> <p>5 folks that are there, the people that were there to</p> <p>6 provide law enforcement services to and all the</p> <p>7 officers that are there.</p> <p>8 So I do care about that, but it was</p> <p>9 bigger than that. I mean, there were a lot of factors</p> <p>10 in this that, you know, I'm sure will be talked about</p> <p>11 for a long time. One of them is the land use status</p> <p>12 that you're talking about. The other is -- one of the</p> <p>13 others is, you know, the safety of everybody based on</p> <p>14 resources that we had available there to do anything.</p> <p>15 (Deposition Exhibit 767 was remotely</p> <p>16 introduced and provided electronically to the court</p> <p>17 reporter.)</p> <p>18 Q. Okay. Let's go to Exhibit 767. So I'm</p> <p>19 very curious about this e-mail. So let's make sure</p> <p>20 you take the time to read this because I'm going to</p> <p>21 ask you a bunch of questions about this.</p> <p>22 A. Okay. I've read it.</p> <p>23 Q. Okay. So this is an e-mail from Adolph</p> <p>24 Benavidez with the Department of Interior; right?</p> <p>25 A. Yes. That's correct.</p>	<p style="text-align: right;">Page 180</p> <p>1 Q. What's the purpose of it?</p> <p>2 A. Well, I think the purpose of it -- the</p> <p>3 first one is somebody wants to know, are there any</p> <p>4 repercussions from the influx of people, so, you know,</p> <p>5 what kind of impact is that having on the Standing</p> <p>6 Rock community. I think the second reason is what</p> <p>7 kind of issues are there for the reservation.</p> <p>8 So I think he's asking or letting</p> <p>9 leadership know, you know, are there any issues, you</p> <p>10 know, traffic, problems with, you know, people going</p> <p>11 into homes, have crimes gone up. And then the third</p> <p>12 reason is that he wants to know where the protesters</p> <p>13 are staying. I think the purpose of it is to get</p> <p>14 those questions answered.</p> <p>15 Q. You keep saying that it's to answer</p> <p>16 questions. Whose questions are --</p> <p>17 A. That I don't know. Somebody must have</p> <p>18 had these questions or these must have been things</p> <p>19 that Ben thought were important to report. They've</p> <p>20 got a question mark on it. So I'm assuming they're</p> <p>21 questions from somebody. I just don't know who. But</p> <p>22 I would assume they were from questions that Harry had</p> <p>23 for Ben or Ben and I. I just don't remember seeing</p> <p>24 them prior to this.</p> <p>25 Q. Who's Ben?</p>
<p style="text-align: right;">Page 179</p> <p>1 Q. Sending an e-mail to Harry Humbert, also</p> <p>2 of the Department of Interior, copied to you; right?</p> <p>3 And it says "Response."</p> <p>4 A. Yeah.</p> <p>5 Q. Okay. Tell me about this e-mail. What's</p> <p>6 this all about? Why are you on it?</p> <p>7 A. I'm not sure. So Adolfo Benavidez was</p> <p>8 the Department of Interior Office of Law Enforcement</p> <p>9 and Security employee who, if I'm not mistaken,</p> <p>10 replaced Jim Gallagher. Not replaced, but took his</p> <p>11 turn in the rotation of coming down there to assist.</p> <p>12 So I'm not sure what the context -- I</p> <p>13 don't know if he was asked these questions by Harry</p> <p>14 Humbert or what they -- I don't know. I don't know</p> <p>15 where the questions are coming from. I'm assuming --</p> <p>16 they seem like logical questions for briefing</p> <p>17 purposes, information on what's going on. But I don't</p> <p>18 know the context of who asked the questions and why he</p> <p>19 sent them. They make sense to me, though.</p> <p>20 Q. So until you got this on your e-mail, you</p> <p>21 had no idea what it was intended for, or what?</p> <p>22 A. I don't know if I received it. It's</p> <p>23 possible that Harry would have sent these questions.</p> <p>24 I don't remember seeing these questions before. I</p> <p>25 don't know where they came from.</p>	<p style="text-align: right;">Page 181</p> <p>1 A. I'm sorry. Adolph Benavidez. He goes by</p> <p>2 Ben, Ben Benavidez.</p> <p>3 (Deposition Exhibit 768 was remotely</p> <p>4 introduced and provided electronically to the court</p> <p>5 reporter.)</p> <p>6 Q. Okay. All right. If we could go to the</p> <p>7 next exhibit, which is 768, please. So would you</p> <p>8 scroll back to the end of this exhibit, Mr. Cruzan,</p> <p>9 and read an e-mail that was sent to you by a gentleman</p> <p>10 named Matt Harman.</p> <p>11 A. You're asking me to read that?</p> <p>12 Q. Yes.</p> <p>13 A. I've read that.</p> <p>14 Q. All right. So who is this fellow?</p> <p>15 A. Well, the Police Executive Research</p> <p>16 Forum, I think they call it -- it's referred to as</p> <p>17 PERF -- is sort of that Washington, D.C. think tank</p> <p>18 for big city -- primarily big city law enforcement.</p> <p>19 And I don't know who Matt Harman is. I</p> <p>20 met him apparently when he came there, but the</p> <p>21 executive director from PERF is a guy by the name of</p> <p>22 Chuck Wexler. And I know Chuck from at the time being</p> <p>23 a part of PERF, a member of PERF. Not a real active</p> <p>24 one, but a member. They hold meetings, I think,</p> <p>25 quarterly or biannually in Washington, D.C., invite</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 182</p> <p>1 all of these law enforcement folks to come in.</p> <p>2 And I was -- I received a phone call from</p> <p>3 Chuck Wexler, who said, Hey, do you think that the</p> <p>4 Sheriff Kirchmeier would have any interest in us</p> <p>5 coming down, taking a look, providing our thoughts? I</p> <p>6 said, Well, I don't know, but I will let him know that</p> <p>7 you're interested and that you want to talk.</p> <p>8 And so I connected Chuck Wexler with</p> <p>9 Sheriff Kirchmeier, and apparently they invited -- he</p> <p>10 invited them down. So they came with -- you know,</p> <p>11 there was -- I think there were five or six folks that</p> <p>12 traveled with him from -- you know, certainly Chuck</p> <p>13 Wexler came down. I guess Matt Harman must have been</p> <p>14 there.</p> <p>15 There was a gentleman from -- one or two</p> <p>16 gentlemen from LAPD and I don't remember who the other</p> <p>17 ones were, but similarly situated like LAPD, sort of a</p> <p>18 bigger police department. And they flew down, had a</p> <p>19 conversation with the sheriff and with the colonel and</p> <p>20 the general. And these -- so these must have been</p> <p>21 questions that Matt sent back to me after their visit</p> <p>22 that for whatever reason he didn't get asked while he</p> <p>23 was down there.</p> <p>24 MR. SEBY: Could you, Rachel, please</p> <p>25 scroll up to Mr. Cruzan's response to Mr. Harman.</p>	<p style="text-align: right;">Page 184</p> <p>1 Sakowin? I know you said they get lots of names.</p> <p>2 A. They do. I commonly refer to this as</p> <p>3 "the large camp." And I know that there were several,</p> <p>4 you know, names given to different sections of the big</p> <p>5 camp. And I have already demonstrated I can't point</p> <p>6 to which ones they were and where they were located</p> <p>7 inside that big camp. So I would generally refer to</p> <p>8 that as "the large camp," "the big camp."</p> <p>9 Q. That's the one north of the Cannonball</p> <p>10 River; correct?</p> <p>11 A. Correct.</p> <p>12 Q. On Army Corps land?</p> <p>13 A. That's my understanding.</p> <p>14 Q. Okay. So he asks you about that camp and</p> <p>15 says is it on Corps land or private land. He says,</p> <p>16 "That is also the camp that does not" -- this is a</p> <p>17 question he's asking you.</p> <p>18 A. Right.</p> <p>19 Q. "That is also the camp that does not</p> <p>20 allow access to law enforcement and prefers to police</p> <p>21 itself, correct?" And you wrote back and said, "Hi</p> <p>22 Matt, that camp" -- you're referring to the larger</p> <p>23 one, you say -- "is located on Corps of Engineers</p> <p>24 land, and is off the reservation, but we have a</p> <p>25 gentleman's agreement to respond for emergencies if</p>
<p style="text-align: right;">Page 183</p> <p>1 A. Okay.</p> <p>2 Q. (BY MR. SEBY) So you answered his</p> <p>3 questions and then he wrote you back, if we could</p> <p>4 continue to scroll up one. There we go. Can you read</p> <p>5 that, Mr. Cruzan?</p> <p>6 A. The one "Good morning Darren"?</p> <p>7 Q. Yes.</p> <p>8 A. Okay.</p> <p>9 Q. And so he says, Got another question for</p> <p>10 you. "The main 7-Fires campsite - is that located on</p> <p>11 Army Corps of Engineers land or is it located on</p> <p>12 private property?"</p> <p>13 A. Yeah.</p> <p>14 Q. Let me finish. "That is also the camp</p> <p>15 that does not allow access to law enforcement and</p> <p>16 prefers to police itself, correct?" And then you</p> <p>17 respond to that, "Hi Matt, that camp (the larger</p> <p>18 one)" -- are you referring --</p> <p>19 A. I can't see. I can't see. Okay.</p> <p>20 Q. So my question is -- let me get my</p> <p>21 question out.</p> <p>22 A. Sure. Sure.</p> <p>23 Q. So you respond to his questions about the</p> <p>24 Seven Fires campsite. That's -- another phrase or</p> <p>25 reference to that camp, do you know to be Oceti</p>	<p style="text-align: right;">Page 185</p> <p>1 needed."</p> <p>2 Who's "we"? Who are you referring to as</p> <p>3 the "we"?</p> <p>4 A. Yeah. I really think what I meant right</p> <p>5 there was that -- and we did this on two occasions</p> <p>6 that I can remember. Morton County didn't have the</p> <p>7 ability or wasn't responding down to the camps for any</p> <p>8 reason, my understanding. And so there were two</p> <p>9 instances where -- one was a pursuit that ended up</p> <p>10 crashing into a teepee. It was a pursuit that</p> <p>11 initiated on the reservation side of the Cannonball</p> <p>12 and proceeded into an area that we knew was blocked</p> <p>13 off, had sped past people on the road, ran into the</p> <p>14 camp, and crashed into a teepee, where there was a</p> <p>15 child in it.</p> <p>16 And the protesters surrounded that</p> <p>17 vehicle, pulled the guy out of the car, and started</p> <p>18 beating him. The BIA officer who had pursued that car</p> <p>19 threw himself on the guy, put him in handcuffs, put</p> <p>20 him in the car, and got him out of there and I think</p> <p>21 saved his life. That would be one instance that I</p> <p>22 would say sort of the gentleman's agreement is that</p> <p>23 we're not going to allow a Morton County sheriff's</p> <p>24 deputy to get injured in there in these emergency</p> <p>25 situations where they get sort of -- you know, that</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 186</p> <p>1 kind of a thing.</p> <p>2 The other instance was -- and I don't</p> <p>3 know this to be completely accurate, but this is the</p> <p>4 story that I've got. One of the Dakota Access</p> <p>5 Pipeline-hired security guys had, for whatever reason,</p> <p>6 driven through the reservation and onto the Morton</p> <p>7 County side of the bridge and had gotten in some sort</p> <p>8 of altercation there. He had a rifle. He had an</p> <p>9 assault rifle. And he was surrounded by people and</p> <p>10 was, you know, walked into a pond or something in</p> <p>11 there. It wasn't the river, but I think it was a pond</p> <p>12 and was surrounded by people.</p> <p>13 I don't know how we got that call, if it</p> <p>14 was Morton County dispatch that sent it to us and said</p> <p>15 there was a guy with a gun surrounded. And I don't</p> <p>16 know if we had heard that shots had been fired. It</p> <p>17 seems like we had heard that. So BIA officers</p> <p>18 responded down there, took that guy into custody, and</p> <p>19 turned him over to Morton County Sheriff's Department</p> <p>20 back on the reservation side.</p> <p>21 So when I say "a gentleman's agreement,"</p> <p>22 a lot of times in Indian country there will be -- with</p> <p>23 sheriff's departments and BIA and tribal police</p> <p>24 departments, there will be a memorandum of agreement</p> <p>25 where they cross-deputize each other.</p>	<p style="text-align: right;">Page 188</p> <p>1 somebody lose their life without some sort of police</p> <p>2 response. And I know that the bridge was blocked and</p> <p>3 they had roadblocks and things on the Morton County</p> <p>4 side that either they chose not to come through or</p> <p>5 they couldn't get through from that side. So in</p> <p>6 situations where there was an imminent threat of life</p> <p>7 and safety, we were prepared to do that. And we did</p> <p>8 that on two separate occasions.</p> <p>9 MR. SEBY: Okay. Thank you. Let's go to</p> <p>10 Exhibit 7 -- first of all, this would be a good time</p> <p>11 to take a break. It's an hour and 15 minutes since we</p> <p>12 last broke. Let's take ten minutes. Off the record.</p> <p>13 THE VIDEOGRAPHER: Going off the record</p> <p>14 at 2:16 p.m.</p> <p>15 (Recess taken, 2:16 p.m. to 2:26 p.m.)</p> <p>16 THE VIDEOGRAPHER: We are back on the</p> <p>17 record at 2:26 p.m.</p> <p>18 (Deposition Exhibit 770 was remotely</p> <p>19 introduced and provided electronically to the court</p> <p>20 reporter.)</p> <p>21 Q. (BY MR. SEBY) Okay. Mr. Cruzan, we're</p> <p>22 back after a short afternoon break and I'd like to go</p> <p>23 to Exhibit 770, please. Would you take a moment and</p> <p>24 read the e-mail, please.</p> <p>25 A. Sure. Okay. I've read it.</p>
<p style="text-align: right;">Page 187</p> <p>1 So the Crow Indian reservation, I'm just</p> <p>2 going to give that example unless you stop me. Big</p> <p>3 Horn County, I was there as a chief of police. We had</p> <p>4 an agreement with Big Horn County Sheriff's</p> <p>5 Department. They gave us their deputization. We gave</p> <p>6 them BIA deputization so that -- not that we could go</p> <p>7 off the reservation and enforce state law, but if</p> <p>8 there was a non-Indian that would come onto the</p> <p>9 reservation, we could detain them, charge them, cite</p> <p>10 them into state court. It just made the</p> <p>11 jurisdictional boundaries a little smoother so that</p> <p>12 when we had non-Indians come on the reservation who we</p> <p>13 have no authority over without that cross-deputization</p> <p>14 would happen.</p> <p>15 So my understanding is that there was not</p> <p>16 one in Morton County between Morton County and the</p> <p>17 Standing Rock Sioux Tribe, and I think it was because</p> <p>18 the Standing Rock Sioux Tribe chose not to do that.</p> <p>19 That's a decision that is not solely exclusive to the</p> <p>20 BIA giving their authority to enforce tribal law. The</p> <p>21 tribe has to be in agreement with that. So I don't</p> <p>22 think there was one in Morton County.</p> <p>23 So when I say "a gentleman's agreement,"</p> <p>24 you know, I probably could have phrased that a little</p> <p>25 bit better, but we certainly were not going to let</p>	<p style="text-align: right;">Page 189</p> <p>1 Q. Great. Thank you. This is an e-mail</p> <p>2 chain that's two pieces. The first is dated</p> <p>3 September 15, 2016, and it's you sending a lengthy</p> <p>4 e-mail to a number of people in the BIA and Department</p> <p>5 of Interior. And one of the people you sent it to was</p> <p>6 Tommy Beaudreau. Do you remember him?</p> <p>7 A. I do.</p> <p>8 Q. You communicated with him and he back to</p> <p>9 you; right?</p> <p>10 A. He did.</p> <p>11 Q. And why did you -- and Mr. Roberts is on</p> <p>12 here, of course, your boss's boss. Why did you send</p> <p>13 this e-mail?</p> <p>14 A. Well, I think this was probably one of</p> <p>15 those e-mails that I had -- you had shown me earlier</p> <p>16 where I had Larry Roberts, Mike Black, and Tommy</p> <p>17 Beaudreau on those e-mails on kind of, sort of</p> <p>18 reporting progress, different things that were</p> <p>19 happening there.</p> <p>20 As I mentioned, I'm not shy about keeping</p> <p>21 my leadership, you know, my boss informed and what's</p> <p>22 going on. And, again, I don't know who asked me to</p> <p>23 put Tommy Beaudreau on there. Somebody must have</p> <p>24 suggested it. So that's the reason.</p> <p>25 Q. So you don't know why you sent these</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 190</p> <p>1 people an update?</p> <p>2 A. Oh, just like I said, for that exact</p> <p>3 thing you just mentioned, to update them on any</p> <p>4 changes. It was --</p> <p>5 Q. I know that, but I'm asking a specific</p> <p>6 question: Why did you choose to send it to these</p> <p>7 people? Did you unilaterally make that decision or</p> <p>8 were you asked to give -- provide an update on a topic</p> <p>9 or topics?</p> <p>10 A. Well, if you recall, I had sent Larry</p> <p>11 Roberts and Mike and Tommy Beaudreau those briefings.</p> <p>12 So my assumption is that was the process at that point</p> <p>13 after I was apparently told, suggested, that Tommy</p> <p>14 Beaudreau be on there. I don't remember that</p> <p>15 specifically, but that's my speculation, is that once</p> <p>16 that happened, like you showed me earlier, it probably</p> <p>17 continued to happen, just thinking that that was who</p> <p>18 needed to be on the distribution list.</p> <p>19 Q. So I want to ask you about one thing in</p> <p>20 your detailed e-mail. You know, the subject of your</p> <p>21 e-mail says "BIA OJS Concerns."</p> <p>22 A. Okay.</p> <p>23 Q. Why did you use that title?</p> <p>24 A. I don't know. Looks like it may be in</p> <p>25 response to something. So I'm not sure what the</p>	<p style="text-align: right;">Page 192</p> <p>1 don't want to say that they grew and continued to</p> <p>2 grow. I think over the -- you know, they ebbed and</p> <p>3 flowed. Once they got to a certain level -- I don't</p> <p>4 know -- 3 or 4,000 people, I don't think it ever went</p> <p>5 under that even in the coldest part of the season. So</p> <p>6 that would have been a concern. Those might have been</p> <p>7 things that I was talking about.</p> <p>8 Q. Yeah, but you've taken --</p> <p>9 A. You're asking me to speculate. So that's</p> <p>10 all I'm doing. I don't know what the BIA OJS concerns</p> <p>11 ahead of this were.</p> <p>12 Q. You've gone to great lengths to tell me</p> <p>13 that your role was very limited and that you really</p> <p>14 only kept your eye on issues pertaining to the</p> <p>15 Standing Rock Sioux Tribe where the BIA had</p> <p>16 jurisdiction. So why are you passing along a detailed</p> <p>17 report that seemingly has very little to do with the</p> <p>18 Standing Rock Sioux Tribe?</p> <p>19 A. As I mentioned earlier that the -- I</p> <p>20 think everything that happened on the other side of</p> <p>21 that river impacted the public safety on the</p> <p>22 reservation side of it. So I can imagine that camps</p> <p>23 were growing. I can imagine that it was in my mind to</p> <p>24 have that request for additional DOI law enforcement</p> <p>25 there.</p>
<p style="text-align: right;">Page 191</p> <p>1 previous -- maybe you have those, what the initial</p> <p>2 e-mail string was. That looks to me to be like a</p> <p>3 "reply all."</p> <p>4 Q. I don't know anything about it because</p> <p>5 your counsel gave us this document and this document</p> <p>6 alone. So that's all I have to go off of. So I don't</p> <p>7 have any other knowledge and I'm asking you for what</p> <p>8 you know about it, because you're the person who sent</p> <p>9 it, Mr. Cruzan.</p> <p>10 A. Cruzan. Yeah. I don't know what the BIA</p> <p>11 OJS concerns were. I don't know what the previous</p> <p>12 e-mail was.</p> <p>13 Q. Well, you're with the BIA. So you're</p> <p>14 providing a detailed analysis and update. So you</p> <p>15 think --</p> <p>16 A. I can tell you what I think my concerns</p> <p>17 at that time were, the time --</p> <p>18 Q. That would be great.</p> <p>19 A. Leadership -- and I think you've probably</p> <p>20 heard this from the sheriff as well, it was very</p> <p>21 difficult. Leadership in these camps changed</p> <p>22 regularly and we didn't know if we were talking to</p> <p>23 anybody with any authority. And so that was a concern</p> <p>24 of mine.</p> <p>25 The camp sizes, that would -- you know, I</p>	<p style="text-align: right;">Page 193</p> <p>1 And so, you know, I think keeping my</p> <p>2 leadership informed of what was going on in that area,</p> <p>3 although it wasn't happening exclusively to things</p> <p>4 happening on the Standing Rock Reservation, I think</p> <p>5 because of the proximity it made a significant</p> <p>6 difference what was happening around us. This was --</p> <p>7 you know, the real reason that this was all happening</p> <p>8 was happening 2 1/2 miles off the reservation, but had</p> <p>9 a huge impact on the safety of the community and the</p> <p>10 officers and the people that were protesting there.</p> <p>11 Q. Why is that?</p> <p>12 A. Well, because, again, that many people</p> <p>13 with that much passion around an issue, we had seen it</p> <p>14 many, many times escalate into confrontations between</p> <p>15 law enforcement and protesters. And as I mentioned, I</p> <p>16 may have had a total of 40 officers there, half of</p> <p>17 which would have been, you know, most of the time off</p> <p>18 duty resting to come on for the night shift. So it</p> <p>19 absolutely mattered to me what was happening around</p> <p>20 the camps and letting my leadership know that if I</p> <p>21 needed to request additional DOI law enforcement, why</p> <p>22 I was doing that.</p> <p>23 Q. So most of the BIA law enforcement worked</p> <p>24 at night?</p> <p>25 A. I don't want to say that. I mean --</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 194</p> <p>1 Q. That's what you said.</p> <p>2 A. No, I didn't say "most." I said, you</p> <p>3 know, we probably had at most 40 or so, and half of</p> <p>4 which would have been off duty resting. If I recall,</p> <p>5 we worked 12-hour shifts. So half of them -- you said</p> <p>6 most. That's not most. That would be half of them</p> <p>7 would be working the day shift and half of them would</p> <p>8 be working the night shift.</p> <p>9 Q. Okay. Thank you. So why did you feel</p> <p>10 the need to include this very last paragraph?</p> <p>11 A. Well, so, you know, again, this looks</p> <p>12 like a time when new leadership had been appointed</p> <p>13 and -- gosh, I'm thinking --</p> <p>14 Q. I just want to make sure --</p> <p>15 A. I know. I want to answer that question.</p> <p>16 I'm thinking diplomacy.</p> <p>17 Q. Let me interrupt for a second because I</p> <p>18 want to make sure that -- I asked you about the last</p> <p>19 paragraph, just to point it to you, any attempts to</p> <p>20 forcibly remove.</p> <p>21 A. Yeah. I understand. I completely</p> <p>22 understand.</p> <p>23 MR. SEBY: Rachel, would you highlight</p> <p>24 that for a second, please.</p> <p>25 A. Yeah. I completely understand what</p>	<p style="text-align: right;">Page 196</p> <p>1 having conversations about, Are we going to stay</p> <p>2 through the winter, which to me had never -- I never</p> <p>3 thought that that wasn't going to be their plan. So</p> <p>4 any idea that they might not seemed like a really good</p> <p>5 opportunity to be diplomatic.</p> <p>6 And so, you know, two things. For all of</p> <p>7 those reason, I thought any attempt to forcibly remove</p> <p>8 campers was counterproductive to the diplomatic</p> <p>9 efforts that were ongoing and hopefully to work here.</p> <p>10 And then as I mentioned earlier, these -- if folks</p> <p>11 were forcibly removed from this camp, they were going</p> <p>12 to be forcibly removed onto the reservation. And,</p> <p>13 again, I have no authority over non-Indians on the</p> <p>14 reservation.</p> <p>15 And I'm also dealing with residential</p> <p>16 communities, schools, churches, businesses just on the</p> <p>17 reservation side of the river. So to me any attempt</p> <p>18 to forcibly remove -- and I had seen it and I'm sure</p> <p>19 you have seen it in videos. I saw it in person from a</p> <p>20 distance what happens when force was attempted. And</p> <p>21 that wasn't, in my opinion, working very well. And it</p> <p>22 stood the chance of law enforcement and protesters</p> <p>23 being injured.</p> <p>24 So just like we had done, you know,</p> <p>25 having dialogue and conversation and being okay with</p>
<p style="text-align: right;">Page 195</p> <p>1 you're asking there. And, again, you know, as I</p> <p>2 mentioned -- and it was a point of frustration</p> <p>3 because you have --</p> <p>4 Q. (BY MR. SEBY) What was?</p> <p>5 A. I'll get there. You would have one</p> <p>6 person or a few people who would identify themselves</p> <p>7 as speaking on behalf of the camp and you would go</p> <p>8 down a road with them on diplomacy and saying, Hey,</p> <p>9 you know, these are our concerns, this is what all of</p> <p>10 us hope the outcome is, that you go home and are safe</p> <p>11 and nobody has to be arrested, nobody has to be</p> <p>12 injured.</p> <p>13 And then you would get so far down that</p> <p>14 road and then you would find out, well, come to find</p> <p>15 out that they're not speaking on behalf of anybody.</p> <p>16 So it was frustrating, but at this point right here,</p> <p>17 according to this e-mail, a new group had been</p> <p>18 identified. And I think we did, as did the sheriff,</p> <p>19 used every opportunity for diplomacy. And I think at</p> <p>20 this moment there was a glimmer of hope that maybe</p> <p>21 this would be the person or the people that were</p> <p>22 speaking on behalf.</p> <p>23 And, you know, I think based on what I'm</p> <p>24 reading here, they were saying the right things about</p> <p>25 more order in the camps and that they were at least</p>	<p style="text-align: right;">Page 197</p> <p>1 being frustrated with changing leadership, just the</p> <p>2 same way that the sheriff felt was okay, any attempt</p> <p>3 to forcibly remove them was going to result in folks</p> <p>4 getting hurt. That was my fear.</p> <p>5 Q. Okay. All of that --</p> <p>6 A. All of that to say that's what that last</p> <p>7 statement is meant.</p> <p>8 Q. You said nothing about the special use</p> <p>9 permit, which is what that paragraph in your e-mail is</p> <p>10 about. So can we move on to answer the question I</p> <p>11 asked?</p> <p>12 A. Well, so you've got highlighted "any</p> <p>13 attempt to forcibly remove the camp or even allude to</p> <p>14 that" could be detrimental to any progress. So is</p> <p>15 that not part of what you wanted me to answer? If</p> <p>16 it's not, I'm happy to read on down that paragraph.</p> <p>17 That's just the first part I came to that was</p> <p>18 highlighted.</p> <p>19 Q. I asked about the whole paragraph, sir.</p> <p>20 A. Yeah. I think all that I said was the</p> <p>21 same. I think diplomacy and having conversations</p> <p>22 about these things that were being decided -- even at</p> <p>23 this point, my education on land use permits was</p> <p>24 pretty limited, but I believe that there were people</p> <p>25 who did have that ability to make those decisions. I</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 198</p> <p>1 just was encouraging -- strongly, I think, 2 encouraging -- that diplomacy win the day and that it 3 not be said that this is when it's going to happen and 4 law enforcement is going to come in. 5 So in there, you know, I mentioned land 6 use permit because I knew that that's what was being 7 discussed by people that have the ability to discuss 8 that and issue those things, but I think I was 9 encouraging, you know, continued diplomacy versus 10 forced removal because I just wasn't seeing that as 11 being very effective. And it made me very concerned 12 for the safety of everyone involved. 13 Q. What does the Corps special use permit 14 have to do with anything and why are you talking about 15 it? 16 A. Well, that must have been something that 17 was being talked about and that the Corps was talking 18 about it, and I heard that they were making decisions 19 on what was going to happen. And I do recall that 20 there would be conversations with that that would come 21 with a decision and a date. So less about the 22 decision -- I probably didn't worry myself as much 23 about the decision on what the status was at this 24 point. 25 With the groups being that big, I was</p>	<p style="text-align: right;">Page 200</p> <p>1 Q. That the permit was being talked about 2 issued for the north side of the Cannonball River? 3 A. Well, if I'm wrong, I'm happy to be. 4 Q. No. 5 A. Let me just -- let me just finish my 6 answer, then. Regardless, any Army Corps of Engineers 7 land, any kind of arbitrary date, we're going to 8 forcibly remove anybody, I certainly didn't have the 9 manpower. And I don't know the numbers that were 10 there. 11 So let's just say maybe I have it wrong. 12 Maybe it was about the Standing Rock Sioux side of 13 the -- I wouldn't have had the resources to safely do 14 that. There was -- I think the last number we talked 15 about was 350 to 450 people even on the Standing Rock 16 side. So we hadn't had any sort of confrontations 17 between law enforcement and the protesters on our 18 side. I wasn't super inclined to push that issue. 19 I was much more interested in diplomacy 20 and having conversations about people leaving, making 21 that decision. So if it was about -- it doesn't 22 matter to me, honestly, on whether it was on the north 23 or south side of that with Army Corps of Engineers. I 24 thought that any forceable removal was a bad decision 25 when diplomacy still had an option, when there was</p>
<p style="text-align: right;">Page 199</p> <p>1 probably more concerned about an arbitrary date being 2 set that if people weren't out by this time, this was 3 going to happen, some sort of forced removal. And I, 4 in my opinion -- and it was my opinion that that was 5 not a good idea based on the numbers that they had, 6 the numbers that Morton County and the State of North 7 Dakota had on that side and certainly the number of 8 folks that I had to respond to sort of any kind of... 9 Q. So, Mr. Cruzan, what does forceable 10 removal have to do with the Corps' special use permit 11 that you talk about here? 12 A. Like I said, I think that there was a 13 special use permit that was going to set a date that 14 they had to be off of that. 15 Q. Off where? Off where? 16 A. Off -- that they had to be off or they 17 were going to be forcefully removed. That's my 18 recollection of how that conversation was going. 19 Q. From where? 20 A. From the Army Corps of Engineers land. 21 Q. Which location? 22 A. On the North Dakota side of the 23 Cannonball River, the big camp and... 24 Q. Really? That was your understanding? 25 A. That was my understanding, yeah.</p>	<p style="text-align: right;">Page 201</p> <p>1 still people who were willing to talk, whether or not 2 they had the authority to speak for everybody that was 3 involved. 4 And we certainly learned that oftentimes 5 that was not the case, but I felt it and I feel it 6 today that diplomacy was the absolute best measure 7 there because we didn't have the resources and the 8 numbers to forcefully remove anyone. 9 Q. I still don't have any understanding of 10 why you keep talking about forceable removal in the 11 context of a special use permit. 12 A. Well, I'm sorry. That's my understanding 13 of it, is that that special use permit was going to be 14 issued with a date of you must be out or off or this 15 will happen, you will be forcefully removed. 16 Q. Where did you get that idea? 17 A. I don't know where I got that idea. That 18 must have been something that I had heard or 19 understood to be the case. I mean, if you set a 20 date -- you have a land use permit and you say, On 21 this date this will happen, you know, from my 22 perspective and what I was seeing then and what my 23 concerns were, the question would be, Okay, well, that 24 date gets here, then what are you going to do? 25 I don't -- it's my opinion we didn't have</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 202</p> <p>1 the ability to do anything. So if that's going to</p> <p>2 escalate tensions when we have two people that have</p> <p>3 just been identified as people who now may have some</p> <p>4 kind of leadership role, I think that is right.</p> <p>5 You've got it highlighted. So I'm going to keep kind</p> <p>6 of pointing back to that because that's how I feel.</p> <p>7 Any attempt to forcefully remove was counterproductive</p> <p>8 to what was happening at that time, in my opinion.</p> <p>9 (Deposition Exhibit 772 was remotely</p> <p>10 introduced and provided electronically to the court</p> <p>11 reporter.)</p> <p>12 Q. Okay. I think we've covered that a lot.</p> <p>13 So let's go to Exhibit 772. So this is -- it's a</p> <p>14 chain of e-mails, but the one below is the same text</p> <p>15 as the one we were just talking about where you</p> <p>16 provided your update with respect to the new</p> <p>17 leadership, Stephanie Hope Smith and Mekasi and his</p> <p>18 wife Faith Spotted Eagle.</p> <p>19 A. We've already seen that one; correct?</p> <p>20 Q. Yes. That's right. That's right. I</p> <p>21 really want to ask you about Mr. Toulou -- well, you</p> <p>22 took that e-mail and you sent it to Mr. Toulou, and</p> <p>23 then Mr. Toulou responded to it.</p> <p>24 And then he responded a second time at</p> <p>25 the very top, Darren: I am very sorry for the way</p>	<p style="text-align: right;">Page 204</p> <p>1 for forgiveness about and sorry he did something to</p> <p>2 you? You have no clue?</p> <p>3 A. I don't have any clue. I don't.</p> <p>4 Q. Okay.</p> <p>5 A. It must not have been very significant to</p> <p>6 me. It may have been more irritating to him. I don't</p> <p>7 recall what it was. I must have been gracious to him</p> <p>8 on the phone, so apparently didn't bother me too much.</p> <p>9 (Deposition Exhibit 774 was remotely</p> <p>10 introduced and provided electronically to the court</p> <p>11 reporter.)</p> <p>12 Q. All right. If we could go to Exhibit 774</p> <p>13 and go to the very bottom of this e-mail chain. You</p> <p>14 are writing to an individual by the name of Major</p> <p>15 General Donald Jackson on Saturday, September 17, and</p> <p>16 you copy it to Larry Roberts, Harry Humbert, Tommy</p> <p>17 Beaudreau, Adolph Benavidez, and William McClure.</p> <p>18 Your e-mail is entitled "Permit Question." "Good</p> <p>19 morning Major General Jackson." And he, by the way,</p> <p>20 is a senior official with the Army Corps of Engineers;</p> <p>21 correct?</p> <p>22 A. I don't remember. I see his e-mail. He</p> <p>23 was not somebody that I would have normally interacted</p> <p>24 with.</p> <p>25 Q. So why did you?</p>
<p style="text-align: right;">Page 203</p> <p>1 this was handled -- clearly it was completely my</p> <p>2 fault. Apparently we have an internal DOJ</p> <p>3 misunderstanding about what sharing, quote, very</p> <p>4 judicially means, end quote (my thought was the</p> <p>5 information would have been available for internal</p> <p>6 conversations with their respective supervisors, i.e.</p> <p>7 the Attorney General of the United States, Deputy</p> <p>8 Attorney General of the United States, and Associate</p> <p>9 Attorney General of the United States, all of whom are</p> <p>10 very interested in this situation). I view this as a</p> <p>11 substantial breach of trust on my part, for which I am</p> <p>12 very sorry. Thank you for being gracious on the phone</p> <p>13 today, but I am not over it yet. I have reached out</p> <p>14 to James, Nekia and Rita and ask that they further not</p> <p>15 share this information.</p> <p>16 So my question to you, quite simply,</p> <p>17 please, is, what is this all about?</p> <p>18 A. I don't have any recollection of that at</p> <p>19 all. I don't know what was missing. I don't recall</p> <p>20 that.</p> <p>21 Q. Okay.</p> <p>22 A. No idea. And I don't really recognize</p> <p>23 either one of those two names at the bottom of this</p> <p>24 e-mail that you've got highlighted.</p> <p>25 Q. I'm asking you what's Mr. Toulou pleading</p>	<p style="text-align: right;">Page 205</p> <p>1 A. I don't know. I don't know what the</p> <p>2 context of the -- if there's more e-mail to this. I</p> <p>3 don't recall this e-mail.</p> <p>4 Q. You keep asking me that, and this</p> <p>5 document has been produced to us by your counsel. So</p> <p>6 I don't have a crystal ball about other stuff.</p> <p>7 A. That's the first time I've asked you</p> <p>8 about this one. I was interested if there was more to</p> <p>9 this one. I don't know. I can assume that there may</p> <p>10 have been a decision that had come out or that I heard</p> <p>11 about and was asking for clarification to get a signed</p> <p>12 copy of whatever it is, the permit that they're</p> <p>13 talking about. So it would have been something</p> <p>14 that --</p> <p>15 Q. They aren't talking about anything. This</p> <p>16 is your e-mail. I'm asking what you're talking about.</p> <p>17 A. Yeah. I don't recall. I'm saying</p> <p>18 somebody -- there must have been a permit that was out</p> <p>19 or that was floating around for draft, I suppose, and</p> <p>20 that was signed. And I was asking for a signed copy</p> <p>21 of it.</p> <p>22 Q. I see.</p> <p>23 A. I don't remember much more about it.</p> <p>24 Q. Okay. All right. You were asking for it</p> <p>25 because you say, "I think it would be helpful for us</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 206</p> <p>1 to understand the specifics."</p> <p>2 A. Yeah. I would imagine that I had heard</p> <p>3 about this or had -- the permit had come out and</p> <p>4 somebody had asked me to see if I can get a signed</p> <p>5 copy of it.</p> <p>6 Q. Why do you say somebody asked you?</p> <p>7 A. I said that might be what happened</p> <p>8 because I don't recall this specific e-mail. I'm</p> <p>9 speculating. I'm sorry. I don't recall it.</p> <p>10 Q. I gather, or at least that's what you're</p> <p>11 saying; right?</p> <p>12 A. I don't understand what that --</p> <p>13 Q. You're saying you don't recall this?</p> <p>14 A. Yeah. That is what I'm saying, yes.</p> <p>15 Q. I understand. So Major General Jackson</p> <p>16 responds to you and said, "Circling back." He does</p> <p>17 this the next day on a Sunday. "Did you get all you</p> <p>18 needed from Colonel Henderson. Please advise." So</p> <p>19 did you?</p> <p>20 A. I don't recall. You know, Paul, this has</p> <p>21 been six years ago, and as I said, there's been --</p> <p>22 these were, you know, issues that -- to be honest with</p> <p>23 you, the permit probably meant something to me, but</p> <p>24 that was not first and foremost on my mind.</p> <p>25 There may have been other people that</p>	<p style="text-align: right;">Page 208</p> <p>1 A. Well, it was very possible, as I said,</p> <p>2 that somebody above me was interested in getting a</p> <p>3 signed copy of that permit and that it might be easier</p> <p>4 for me to get that.</p> <p>5 Q. Okay. And based upon that, when I asked</p> <p>6 you about Major General Jackson's circling back</p> <p>7 message, he says, "Did you get all you needed from</p> <p>8 Colonel Henderson." I'm asking you, did you?</p> <p>9 A. Well, I don't recall. I don't recall</p> <p>10 what I said. I'm assuming -- I'm assuming that I got</p> <p>11 what I needed, but I'm hoping maybe you have an e-mail</p> <p>12 there that tells me whether I did or not. But I don't</p> <p>13 recall whether I got that or not.</p> <p>14 Q. Okay. So let me --</p> <p>15 A. I will tell you, you know, my -- go</p> <p>16 ahead.</p> <p>17 Q. So your e-mail on Saturday morning to</p> <p>18 General Jackson and copied to Larry Roberts, Harry</p> <p>19 Humbert, Tommy Beaudreau, Adolph Benavidez, William</p> <p>20 McClure, are any of these people attorneys?</p> <p>21 A. I know Larry Roberts is an attorney. I</p> <p>22 don't know about Tommy Beaudreau. I think he is an</p> <p>23 attorney. Harry Humbert is not. Adolph Benavidez is</p> <p>24 not. William McClure is not.</p> <p>25 Q. So do any of their positions -- chief of</p>
<p style="text-align: right;">Page 207</p> <p>1 were interested in that and because I was there on the</p> <p>2 ground might have access to it, might be able to get</p> <p>3 it. But, you know, the details of this, the land</p> <p>4 status, what was Army Corps of Engineers, that was</p> <p>5 something that somebody else needed to work on.</p> <p>6 My concern -- and, you know, I understand</p> <p>7 you're getting tired of hearing this, but that was not</p> <p>8 my first concern. My first concern was the safety of</p> <p>9 the folks that were there. So all of this stuff, to</p> <p>10 me, was, you know, sort of secondary to the large</p> <p>11 group of people that we had there that were doing, you</p> <p>12 know, oftentimes, you know, pretty serious protests.</p> <p>13 And that was my concern.</p> <p>14 I wasn't overly concerned about a signed</p> <p>15 permit. So somebody, I'm sure, said, Hey, can you get</p> <p>16 a copy of that? And then I would have responded, but</p> <p>17 I don't recall that. And I apologize if that's hard</p> <p>18 for you to understand, but that's the fact. I don't</p> <p>19 recall that issue.</p> <p>20 Q. Well, I want you to understand why I'm</p> <p>21 asking about it, because we looked at an e-mail from</p> <p>22 you to the assistant secretary of the Interior and the</p> <p>23 chief of staff to the secretary of the Interior, and</p> <p>24 you brought up the special use permit. So it was on</p> <p>25 your mind at least to tell them that.</p>	<p style="text-align: right;">Page 209</p> <p>1 staff to the secretary of the Interior and the</p> <p>2 assistant secretary of the Interior for Indian</p> <p>3 Affairs, do those positions call for them to provide</p> <p>4 legal counsel to you or anybody else?</p> <p>5 A. Well, I mean, I don't know what their</p> <p>6 position descriptions specifically say on that. They</p> <p>7 would be in a supervisory role to me. So I would</p> <p>8 assume if I need some help or some guidance, they</p> <p>9 would be able to provide it to me. Whether it's</p> <p>10 because they're attorneys or not, I don't know. You</p> <p>11 know, I mean, they're not assigned to me to provide</p> <p>12 legal guidance and counsel.</p> <p>13 Q. Do either of their titles, to your</p> <p>14 knowledge, say, I'm a legal adviser to somebody or</p> <p>15 counsel to somebody?</p> <p>16 A. No, not -- no.</p> <p>17 Q. So then why do you think that -- if we</p> <p>18 could scroll up. Are you an attorney?</p> <p>19 A. I am not.</p> <p>20 Q. So why do you think that whatever you</p> <p>21 said back to General Jackson of the Corps, who's not</p> <p>22 an attorney -- why do you think that in response to</p> <p>23 his question about did you get what you needed with</p> <p>24 respect to your permit -- your question asking for a</p> <p>25 signed copy of a special use permit, why do you think</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 210</p> <p>1 that that's been redacted?</p> <p>2 MR. SCARPATO: Foundation.</p> <p>3 A. I'm also not --</p> <p>4 Q. (BY MR. SEBY) Sorry?</p> <p>5 THE DEPONENT: I didn't hear what Bill</p> <p>6 said.</p> <p>7 MR. SCARPATO: I made an objection for</p> <p>8 foundation, but you can answer, Mr. Cruzan.</p> <p>9 A. Yeah. Yeah. I'm not a redaction FOIA</p> <p>10 expert either. So I would have no idea.</p> <p>11 Q. (BY MR. SEBY) This is not a FOIA</p> <p>12 document. This is a document your counsel produced in</p> <p>13 discovery in a federal court case in the District of</p> <p>14 North Dakota. Why is this here?</p> <p>15 A. Yeah. I would have no idea.</p> <p>16 MR. SCARPATO: Note the same objection.</p> <p>17 Q. (BY MR. SEBY) And let's see here. So you</p> <p>18 don't recall anything to do about this communication?</p> <p>19 A. I do not, no.</p> <p>20 Q. All right. It seems any time you asked a</p> <p>21 permit question, it's been redacted and I have no idea</p> <p>22 why. And we're going to pursue that. So you may be</p> <p>23 in need of talking about this further because it's</p> <p>24 unclear to us why your e-mails about this permit</p> <p>25 request that you made are hidden from us.</p>	<p style="text-align: right;">Page 212</p> <p>1 camp.</p> <p>2 Q. You're a member of a tribe in Oklahoma,</p> <p>3 aren't you?</p> <p>4 A. Yes.</p> <p>5 Q. Do you recognize this fellow or did you</p> <p>6 share that in common? I think I've read he's an</p> <p>7 enrolled member of the Ponca tribe.</p> <p>8 A. Why would that ring a bell to me? I'm</p> <p>9 not an enrolled member of the Ponca tribe.</p> <p>10 Q. No, I know, but both tribes happen to be</p> <p>11 in the state of Oklahoma and I wondered if you had any</p> <p>12 familiarity with him for that reason?</p> <p>13 A. I don't know. I don't know.</p> <p>14 Q. Okay. I don't have any basis other than</p> <p>15 the shared Oklahoma.</p> <p>16 A. There's probably hundreds of thousands of</p> <p>17 Native Americans in Oklahoma, but I don't know him.</p> <p>18 Q. Yes. So what meeting is he talking</p> <p>19 about?</p> <p>20 A. I'm not sure what meeting he's talking</p> <p>21 about. I'm asking those guys if they knew anything</p> <p>22 about it. So apparently I was confused by it.</p> <p>23 Q. Well, the funny thing about this e-mail</p> <p>24 chain is, I wonder why you responded to your own</p> <p>25 e-mail?</p>
<p style="text-align: right;">Page 211</p> <p>1 A. Well, I've always made myself available.</p> <p>2 So if that needs to happen, I'm happy to do it.</p> <p>3 (Deposition Exhibit 776 was remotely</p> <p>4 introduced and provided electronically to the court</p> <p>5 reporter.)</p> <p>6 Q. I'm just telling you. I think that this</p> <p>7 is a big deal to us and it's not just going to go by</p> <p>8 the way. The next deposition exhibit is Exhibit 776.</p> <p>9 So would you take a minute and read this e-mail chain.</p> <p>10 It's two e-mails and the first one is from you on</p> <p>11 Sunday, September 18. I don't know who you sent it</p> <p>12 to. And, again, this is the only e-mail I have. So</p> <p>13 I'm not going to show you another e-mail later about</p> <p>14 this. So this is all I know. I'd really appreciate</p> <p>15 you telling me if you recall anything about this or</p> <p>16 it's another one of those that is not in your memory.</p> <p>17 Okay. Your first e-mail in this chain,</p> <p>18 which is all I've got, it says, "I just got an e-mail</p> <p>19 from Mekasi asking if I was coming to a meeting. You</p> <p>20 guys know anything about it?" Who is Mr. Mekasi?</p> <p>21 A. Well, in an earlier e-mail it was the</p> <p>22 individual that was identified as now speaking on</p> <p>23 behalf of the big camp. I don't know him other than</p> <p>24 that. I'm not sure who he is, but he was identified</p> <p>25 as somebody that was speaking on behalf of the big</p>	<p style="text-align: right;">Page 213</p> <p>1 A. That I responded to my own e-mail?</p> <p>2 Q. Yeah. Roll up, would you, please. So</p> <p>3 there's two e-mails on this chain. The first one is</p> <p>4 from you and later that same day, September -- Sunday,</p> <p>5 September 18, you -- it doesn't say you forwarded it.</p> <p>6 It says "Re: Meeting today." At least I can tell now</p> <p>7 you addressed this to General Dohrmann of North</p> <p>8 Dakota, Sheriff Kirchmeier, Colonel Gerhart, and</p> <p>9 there's Ms. Salamanca again -- you're communicating</p> <p>10 directly with her -- and Greta Baker, the Standing</p> <p>11 Rock Sioux Tribe official. And you say, "He and I are</p> <p>12 chatting via text." I believe you're referring to</p> <p>13 Mr. Mekasi?</p> <p>14 A. That's what it looks like to me, yes.</p> <p>15 Q. So did you text with him a lot?</p> <p>16 A. No. I wouldn't have texted with him a</p> <p>17 lot, but I will tell you this. You know, as I</p> <p>18 mentioned earlier with trying to have diplomatic</p> <p>19 relations and contact and open communication, it would</p> <p>20 not have been unusual for me to share my work phone</p> <p>21 cell number. So that's what it looks like to me, is</p> <p>22 that, you know, we had had a conversation or meeting</p> <p>23 somewhere. He had been identified to this group as a</p> <p>24 potential leader within the big camp and --</p> <p>25 Q. And by that --</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 214</p> <p>1 A. -- I'm sure that I, you know, shared my 2 contact information with him.</p> <p>3 Q. Okay. I get it. So by saying he was the 4 speaker on behalf of the big camp, you're not talking 5 about a camp on the Standing Rock Sioux Tribe, are 6 you?</p> <p>7 A. No, I'm not.</p> <p>8 Q. What are you referring to?</p> <p>9 A. It would be the camp on the north side of 10 the Cannonball River.</p> <p>11 Q. Okay. So you were texting with 12 Mr. Mekasi about the camp on the Corps of Engineers 13 property?</p> <p>14 A. Yes. That's correct.</p> <p>15 Q. Okay. I thought you tried to really keep 16 out of that?</p> <p>17 A. No, that's not what I said. You know, 18 the general and the sheriff and the colonel and I all 19 had a good working relationship. I think we all 20 shared the same desire to find a way to resolve the 21 protest safely and peacefully.</p> <p>22 So I don't remember exactly how we were 23 all introduced to this gentleman, but it's apparent to 24 me by reading this that the way I said, I just got an 25 e-mail from Mekasi asking if I was coming to the</p>	<p style="text-align: right;">Page 216</p> <p>1 have no idea what question that was. I don't 2 remember.</p> <p>3 Q. What did you mean by "jurisdiction"?</p> <p>4 A. Well, I don't know. Whatever question he 5 had must have been about something about the 6 jurisdiction, law enforcement jurisdiction, I assume, 7 but I don't remember what the question was. And I 8 think I say that right there, but I'm not sure what 9 that is yet.</p> <p>10 Q. My question is, so did you further chat 11 with Mr. Mekasi and talk about that issue?</p> <p>12 A. Yeah.</p> <p>13 Q. You don't know?</p> <p>14 A. I don't remember if we had any further 15 conversations. I don't know where that went.</p> <p>16 Q. Okay. Could anybody --</p> <p>17 A. But to your point, that was not -- you 18 know, negotiating on behalf of the sheriff would 19 certainly not have been something that I would have 20 done, or the general or the colonel. You know, if 21 somebody reaches out to me like that, I'm going to 22 make those connections.</p> <p>23 And that's what we're doing right there. 24 That was -- you know, to give the impression that I -- 25 I don't want you to think that that's what I was</p>
<p style="text-align: right;">Page 215</p> <p>1 meeting, you guys know anything about it leads me to 2 believe that we had all met with him at some point. I 3 don't know why he was communicating with me about a 4 meeting. I don't know. Maybe he felt more 5 comfortable with me. I don't know, but...</p> <p>6 Q. So you were working as part of the 7 diplomacy effort that you were interested in; right?</p> <p>8 A. Well, when I was invited into those 9 conversations. I know that there were a couple of 10 times when the sheriff and the colonel and the general 11 would meet with folks and would invite me to be there. 12 I know there were a couple of instances where -- one, 13 for instance, when they met with folks down at the 14 bridge to have a conversation.</p> <p>15 It was -- I was not invited to that one. 16 So I don't want to give the impression that I was part 17 of every diplomatic conversation that those gentlemen 18 had with folks, but there were some that I was invited 19 to be a part of.</p> <p>20 Q. So you're reporting to those individuals, 21 which included a Department of Justice person and 22 Standing Rock -- you say that "He," Mekasi, "has a 23 jurisdiction question." What was that that you -- you 24 were texting him. So did he tell you or did --</p> <p>25 A. Yeah. I don't recall what that was. I</p>	<p style="text-align: right;">Page 217</p> <p>1 trying to do, negotiate something on their behalf, 2 because that was not anything that I was interested in 3 doing.</p> <p>4 Q. Okay. Why were you talking to 5 Mr. Mekasi?</p> <p>6 A. Apparently he texted me.</p> <p>7 Q. Why didn't you tell him, Don't 8 communicate with me, I'm not associated with your 9 camp?</p> <p>10 A. Yeah. Well, again, I don't remember. 11 Apparently those other three gentlemen were familiar 12 with him as well. And I am certainly not going to be 13 dismissive of somebody who -- whether he does or 14 doesn't have any speaking power on behalf of the large 15 camp, I certainly wouldn't ever speak to him that way. 16 That was not what we were trying to do. We were 17 trying to have an open line of communication and 18 diplomacy. So to say, Don't call me, call him, I 19 don't think that's what I would have done.</p> <p>20 (Deposition Exhibit 777 was remotely 21 introduced and provided electronically to the court 22 reporter.)</p> <p>23 Q. Okay. So could we go to Exhibit 777, 24 triple seven. Could you look at this e-mail from the 25 beginning. It's an e-mail from Rosa Salamanca, senior</p>

<p style="text-align: right;">Page 218</p> <p>1 conciliation specialist, community relations service, 2 United States Department of Justice. Would you read 3 Ms. Salamanca's e-mail, please. By the way, she sends 4 it to you. And maybe go up to the start of the 5 e-mail. Can you read that text okay?</p> <p>6 A. I can read that text okay, yeah.</p> <p>7 Q. Okay. Great.</p> <p>8 A. Okay. I'm at the bottom of the page.</p> <p>9 Q. Okay. So I -- there's another e-mail 10 here. And we'll get there, but I want to just ask -- 11 are you okay if I ask you about just this e-mail, 12 please?</p> <p>13 A. Am I okay if you ask me about this 14 e-mail? Sure.</p> <p>15 Q. All right. So this e-mail is dated 16 September 6, 2016, Ms. Salamanca with the Department 17 of Justice to -- I don't know who it was sent to 18 because that apparently has been stricken from my 19 view. Do you know who this was originally addressed 20 to?</p> <p>21 A. I don't.</p> <p>22 Q. It's weird, but you're a cc. And it says 23 "Volunteer Self Marshals." She says to the group, you 24 included, "I have completed Self Marshal Training for 25 the Oceti Sakowin Unified Nations Camp overflow and</p>	<p style="text-align: right;">Page 220</p> <p>1 camp. Did you happen to know what she's talking 2 about?</p> <p>3 A. Well, I don't specifically. I'm not 4 familiar with that term, but as I recall, it was just 5 how to sort of police themselves but not something 6 that I would have endorsed or even allowed to happen 7 had I known that she was planning on going down there. 8 I say "allowed to happen." That was out 9 of my area. She could have gotten down there without 10 me, but I would have had a problem with that. I think 11 we were surprised by the fact that she had gone down 12 there.</p> <p>13 Q. Yes. Her e-mail then goes on to say, 14 "While walking with one of the volunteer, we had to 15 stop several times so that he could pick out weeds and 16 stickers from the soles of his shoes." 17 Do you think she's talking about a 18 protester in the camp?</p> <p>19 A. That's what it appears to me.</p> <p>20 Q. Yeah. Same. "Many of the other 21 volunteers" -- I just think it's interesting a 22 Department of Justice person getting trained in 23 self-policing in a camp talking about people in the 24 camp protesting something. The north camp, we already 25 talked about, did not -- was not the subject of a</p>
<p style="text-align: right;">Page 219</p> <p>1 Sacred Stone Security Volunteer."</p> <p>2 Why in the world is a Department of 3 Justice person getting trained to be a civilian law 4 enforcement person in a protest camp on federal 5 property?</p> <p>6 MR. SCARPATO: Objection; misstates the 7 evidence.</p> <p>8 A. Yeah. I think we had the same question 9 on that. I think that was not something that I would 10 have been aware that she was doing. And I remember 11 having conversations with the sheriff and the colonel 12 and the general, and we were all bothered by the fact 13 that she was in that camp. You know, the training -- 14 I vaguely remember this e-mail, but the fact that she 15 was even in the camp was troublesome to me.</p> <p>16 It put her in a bad situation and, in my 17 opinion, could have put law enforcement in a bad 18 situation. Had she been assaulted or something like 19 that, it would have forced us to go down there and get 20 her and could have -- just all sorts of bad things. 21 So I don't know and -- I don't know why she was down 22 there doing that.</p> <p>23 Q. (BY MR. SEBY) Everything you say makes a 24 lot of sense to me. I don't know what a self-marshal 25 training is for the Oceti Sakowin Unified Nations</p>	<p style="text-align: right;">Page 221</p> <p>1 tendered special use permit. So she's in there 2 hanging out in an illegal camp that the Corps referred 3 to as trespassers and she's getting training in how to 4 work together. And I just don't know what in the 5 world that would involve.</p> <p>6 And she goes on to say, I've got a need 7 for some resources I want to give to these people, 8 could you all help out. Does that seem weird to you 9 as well?</p> <p>10 A. Well, it's certainly not a request that I 11 would have entertained.</p> <p>12 Q. Yeah. She's trying to support and help 13 them, isn't she?</p> <p>14 A. I don't know what her intent there is. I 15 mean, "Are there any local resources that could 16 possibly help them out?" I can only take what she 17 wrote right there as what she was trying to do. And, 18 again, I'm not really familiar with that office and 19 wasn't familiar prior to it.</p> <p>20 Q. I understand. Yeah. I appreciate 21 your -- the clarity of your responses here. That's 22 great. So can we go up. So she sent that e-mail on 23 September 6, as we talked about. And then several 24 days go by until she responds to her own e-mail, now 25 on September 6 -- the 20th. Pardon me. Two weeks</p>

<p style="text-align: right;">Page 222</p> <p>1 later, basically. And she says, "Update to Volunteer 2 Self Marshal's needs and concerns." And, again, the 3 self-marshals she identifies with the Oceti Sakowin 4 Unified Nations Camp, the camp with no permission to 5 be on federal land, public land north of the 6 Cannonball River that is Corps of Engineers land. 7 She's giving an update to Ms. -- 8 A. Greta Baker. 9 Q. -- Greta Baker. I was trying to remember 10 her last name. And Greta is with the Standing Rock 11 Sioux Tribe. Why is she giving updates to the 12 Standing Rock Sioux Tribe about a protest camp that's 13 not on the reservation? 14 A. Yeah. I wouldn't know. 15 Q. And I appreciate that. So she says, 16 "FYI, update on security needs." Why is she talking 17 about security needs for a camp without a permit on 18 public lands? What's she doing? 19 MR. SCARPATO: Objection; foundation. 20 A. Yeah. I wouldn't know. I wouldn't know. 21 Q. (BY MR. SEBY) Okay. Then she gives an 22 updated equipment list that -- I think she's out here 23 soliciting donations to help the trespassers on Corps 24 property. 25 MR. SCARPATO: Objection; argumentative</p>	<p style="text-align: right;">Page 224</p> <p>1 response and our discussion just now on the prior 2 exhibit, which that e-mail string is repeated below. 3 So we don't need to talk about that. It's clear what 4 Ms. Salamanca is doing. You responded consistent with 5 the conversation we just had. You say, "Rosa, I'm 6 confused, about this e-mail." 7 A. My punctuation wasn't very good, but my 8 point was, yeah, I'm confused about it. I didn't 9 understand what she was looking for. 10 Q. And you copied everybody else. So I do 11 not have any other e-mails on this topic. So I'm 12 curious, what happened to this -- her efforts in this 13 e-mail? Did others say, Hey, Mr. Cruzan, I don't know 14 what in the world she's doing as a Department of 15 Justice person? 16 A. Yeah. I don't recall exactly what 17 happened. It appears to me -- and maybe this is just 18 normal, but that your exhibits are a little bit out of 19 order just from timeline, because I remember an 20 earlier one and it was the last paragraph. And I 21 think it was the first mention of her and about her 22 going home. I don't remember exactly, but I don't 23 think she stayed too awfully long. And I don't know 24 if we said, Hey, thank you, you've done enough or if 25 DOJ sent her home. And I don't know if it was because</p>
<p style="text-align: right;">Page 223</p> <p>1 and calls for a legal conclusion. 2 Q. (BY MR. SEBY) And she goes on to say 3 Sacred Stone -- and she's also here soliciting help. 4 She says the camp single security personnel needs -- 5 quote, Needs help and would like some new recruits who 6 can be trained according to the philosophy of the 7 Sacred Stone Camp, quote, nonviolence and peaceful 8 protest. He estimates that he will need about eight 9 to ten people to cover the camp effectively. The 10 primary contact for this camp is LaDonna Allard. 11 Why is she posing this solicitation for 12 equipment to the State of North Dakota who's busy 13 dealing with the bad side of a riot protest occurring 14 on federal land? 15 MR. SCARPATO: Objection; foundation, 16 argumentative. 17 A. I'm not sure. 18 (Deposition Exhibit 778 was remotely 19 introduced and provided electronically to the court 20 reporter.) 21 Q. (BY MR. SEBY) That's why I ask, because I 22 sure don't get it either. I understand your response 23 and I appreciate it. Could we go on to 778. This is 24 the same e-mail that she sent around earlier. You 25 responded that same day, and now I know why from your</p>	<p style="text-align: right;">Page 225</p> <p>1 of this e-mail string and her going down to the camp, 2 but as I recall, she didn't stay too awfully long. 3 But I don't remember what was -- I don't remember a 4 response from her. I don't remember saying, I'm 5 confused about this e-mail, but certainly I was. 6 THE VIDEOGRAPHER: Mr. Seby, sorry to 7 interrupt. Can we take a quick ten-minute break for 8 technical difficulties. 9 MR. SEBY: Yes. Did you miss anything 10 that we just covered? 11 THE VIDEOGRAPHER: About maybe five 12 seconds of it, five or ten. 13 MR. SEBY: Tell me what the last thing 14 that you captured. Ms. Goulding, you got it all; 15 right? 16 THE REPORTER: I did. 17 MR. SEBY: Okay. That's fine. 18 THE VIDEOGRAPHER: And it's still on the 19 Zoom recording itself. 20 MR. SEBY: Thank you. 21 THE VIDEOGRAPHER: We are off the record 22 at 3:22 p.m. 23 (Recess taken, 3:22 p.m. to 3:31 p.m.) 24 THE VIDEOGRAPHER: We are back on the 25 record at 3:31 p.m.</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 226</p> <p>1 (Deposition Exhibit 790 was remotely 2 introduced and provided electronically to the court 3 reporter.) 4 Q. (BY MR. SEBY) Mr. Cruzan, we were taking 5 a short technical break. Now we're back. I want to 6 ask you about Exhibit 790, which is on its way to 7 being put up. So let's see. This is two e-mails in a 8 chain, and the first one is from you on October 14. I 9 don't know who it was sent to. You say, "Good 10 evening, we plan on writing the daily brief at least 11 thru November 4 when Bill McClure is scheduled to 12 return to Albuquerque." 13 The daily brief, I want to make sure I 14 understand what that is. Is that the -- 15 A. Yes, sir. I think it's the document that 16 we looked at that we were -- and I feel confident that 17 we were bolding in red. And if I'm remembering it 18 correctly, it was a running report, sort of, you know, 19 daily things that were happening. Sometimes there 20 were significant events. Sometimes there weren't. 21 And I feel strongly that we were pretty 22 good about highlighting those new things in red. But 23 you have shown me documents that definitely have red 24 ink on them and nothing highlighted in red. But that 25 was generally what that was, is we would create a</p>	<p style="text-align: right;">Page 228</p> <p>1 Q. Okay. And you were the top law 2 enforcement person for the Bureau of Indian Affairs? 3 A. I was. We eventually -- I'm sure we'll 4 get into it. When we did eventually get additional 5 help from National Park Service on the reservation 6 side, we employed the incident command system, which 7 is something they're very good at. And, you know, I 8 think prior to them getting there, we were doing the 9 very best that we could structurally, but they have a 10 very robust incident command structure. 11 So my title would have changed to 12 incident commander. It would have been the same role 13 within the boundaries of the reservation, once we 14 start getting other folks there. But yeah, I was the 15 senior law enforcement official there from the Bureau 16 of Indian Affairs. And like I said, occasionally we 17 would have folks from the Department of Interior show 18 up, the Department of Interior Office of Law 19 Enforcement and Security, James Gallagher, Adolph 20 Benavidez and those. But in terms of anybody there on 21 the ground from law enforcement, I would have been 22 clearly the senior law enforcement person for BIA. 23 Q. So your e-mail referencing the "we" doing 24 the daily briefings is dated October 11 -- no -- 14. 25 Pardon me. And so as of that date, the National Park</p>
<p style="text-align: right;">Page 227</p> <p>1 document, you know, just a daily update of anything 2 significant that would happen. I'm sure it included, 3 like, best estimations on camp sizes. 4 And that would have included, you know, 5 certainly the camps that we had on the reservation 6 side and our best estimation or, you know, even using 7 data that we had gleaned from the Morton County 8 Sheriff's Department on, you know, reports on camp 9 sizes and those kind of things. Just daily updates on 10 what was going on. 11 Q. Okay. So that was something -- you say 12 "we plan on." Who's the "we" that you're referencing? 13 A. Yeah. I probably was referring to us in 14 general, you know, we down here because there were, 15 you know -- and I don't have the -- I think I was 16 personally there for several months, but on and off. 17 And so when I would leave, I would oftentimes leave 18 Bill McClure, who was the special agent in charge of 19 that district -- I would leave him in my role. And I 20 think when I say "we," I probably just meant we who 21 are down here, we'll make sure that those get updated. 22 Q. So the general "we" that you're referring 23 to is the Bureau of Indian Affairs law enforcement 24 group? 25 A. Yes.</p>	<p style="text-align: right;">Page 229</p> <p>1 Service incident command system was not in place? 2 A. I would have to look. I don't believe 3 so. I don't believe they were -- I don't remember 4 exactly, but I don't believe they were there yet. Was 5 it March when the thing came to a conclusion? That's 6 a question. I don't -- 7 Q. I think it's March, April. I don't mean 8 to -- 9 A. Yeah. So I think it was through -- I 10 think we got through the winter months because we saw 11 things sort of numbers-wise were probably holding 12 steady in those cold months. You guys understand the 13 winters there. So I don't think that we deployed 14 additional resources. 15 So the "we" there would have been BIA 16 OJS, whoever is running -- whoever is in charge at 17 that particular time. I know I went home for 18 Thanksgiving and then back. So I think Bill and I 19 probably did the handoff on who was in charge there a 20 few times. 21 Q. Was the -- did you stay after the first 22 of the year? 23 A. Yes. I was there for quite a bit. 24 Several months I was there. Again, I don't think I 25 strung them all together, but there were multiple</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 230</p> <p>1 weeks strung together.</p> <p>2 Q. So you were not a political appointee</p> <p>3 that sunseted with the change in administrations?</p> <p>4 A. No. I was never a political appointee.</p> <p>5 Q. Okay. Professional law enforcement?</p> <p>6 A. Correct.</p> <p>7 Q. So these law enforcement summaries, then,</p> <p>8 are the document we were talking about earlier, right,</p> <p>9 the executive summary? The question I have about the</p> <p>10 format of that -- I know the red is not showing up, at</p> <p>11 least in terms of updates. It shows up as the law</p> <p>12 enforcement sensitive, but not in the document.</p> <p>13 A. Right.</p> <p>14 Q. When you would write those, what was the</p> <p>15 practice? You would just have one document that you</p> <p>16 continuously updated and the older stuff stayed, but</p> <p>17 you updated it with new information?</p> <p>18 A. Yeah, I think that's right. I think it</p> <p>19 was -- I don't remember exactly, but I think it was a</p> <p>20 running tally. You know, I don't think we deleted and</p> <p>21 rewrote it. I feel like it was -- I feel like there</p> <p>22 were dates on it, but I could be wrong on that. Yeah.</p> <p>23 It wasn't something new created every day. We used</p> <p>24 the previous report.</p> <p>25 Q. And you wouldn't drop the older stuff;</p>	<p style="text-align: right;">Page 232</p> <p>1 very clearly -- and this is, again, why I think</p> <p>2 maybe -- earlier in our conversation when we were</p> <p>3 speaking about Jim Gallagher and it was unclear as to</p> <p>4 why it would come from my e-mail, I do remember that</p> <p>5 he was sort of the first one there with me that helped</p> <p>6 me create this what would be kind of the report</p> <p>7 process.</p> <p>8 And I remember being at a hotel in</p> <p>9 Bismarck. I feel like it was downtown. I can very</p> <p>10 clearly picture the glass sort -- I can't remember</p> <p>11 what they call it, but kind of like a little office</p> <p>12 center there that you could use at the hotel, and him</p> <p>13 typing out the initial structure of how that would</p> <p>14 look. And it may have been that, you know, through</p> <p>15 conversations that he and I had -- and, again, he</p> <p>16 would stay with me quite a bit. Almost everywhere I</p> <p>17 went, he would go. And same with Ben when he was</p> <p>18 there, that those guys would help craft that.</p> <p>19 I probably took turns updating.</p> <p>20 Sometimes they probably did. Sometimes Bill McClure</p> <p>21 would have done it. So it wasn't just one person's</p> <p>22 report, but it was a format that we had initially.</p> <p>23 And that may very well have changed once the incident</p> <p>24 command structure showed up. I think they did show us</p> <p>25 different formats that they used and we implemented</p>
<p style="text-align: right;">Page 231</p> <p>1 right?</p> <p>2 A. Well, I don't remember doing that. Yeah.</p> <p>3 Q. What I'm getting at is if one were to</p> <p>4 read a later report like -- I don't know -- December</p> <p>5 of 2016 or January of 2017, would it carry forward the</p> <p>6 first text of the first time it was done, whenever</p> <p>7 that was?</p> <p>8 A. Well, I believe it was something like</p> <p>9 that. I don't know if it was a --</p> <p>10 Q. It got to be a pretty big document, then?</p> <p>11 A. Yeah. I don't know if it was a 62,</p> <p>12 100-page document. I don't remember if it was that</p> <p>13 way, but I do know that we just updated. And it may</p> <p>14 have been that we updated, put it in red, and that was</p> <p>15 part of a file somewhere, you know, or an e-mail chain</p> <p>16 or something like that. But it seems like I think</p> <p>17 that we -- it was a running -- at least at the</p> <p>18 beginning, I know that it was sort of a summation of</p> <p>19 the dates.</p> <p>20 Q. In your group then, Mr. Cruzan, in the</p> <p>21 BIA law enforcement group, the OJS, who -- it sounds</p> <p>22 like there were multiple people that were contributing</p> <p>23 to it as authors, if you will. They wrote the</p> <p>24 content; right?</p> <p>25 A. Well, I will tell you that I do remember</p>	<p style="text-align: right;">Page 233</p> <p>1 those, but in the beginning it was that report running</p> <p>2 tally and then -- you know, there may have been</p> <p>3 multiple people that had input and thoughts on it, you</p> <p>4 know, jogging memories on what was said, Hey, this</p> <p>5 would be important to put in there, this might be</p> <p>6 important to put in there, those kind of things.</p> <p>7 Q. Right. I'm sorry. I don't think you've</p> <p>8 spoken to this, but when you were talking about the</p> <p>9 National Park Service incident command system, it was</p> <p>10 a much better platform I think you said and it was</p> <p>11 brought in eventually. Do you recall when that was?</p> <p>12 Was it before or after the beginning of the year?</p> <p>13 A. I think it was after the beginning of the</p> <p>14 year. It was probably as we were getting closer to</p> <p>15 the end, probably maybe a month or month and a half, I</p> <p>16 would guess. I'm ballparking that. And that's what</p> <p>17 it is. It's an incident command structure, and it is</p> <p>18 just that.</p> <p>19 You know, so you have folks that are</p> <p>20 responsible for planning. You have folks that are</p> <p>21 responsible for scheduling. You have folks that are</p> <p>22 responsible for, you know, getting things like fuel</p> <p>23 for vehicles, had to think through that kind of thing,</p> <p>24 as opposed to just having one group there trying to</p> <p>25 scramble.</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 234</p> <p>1 As I mentioned, this wasn't something 2 that any of us at this scale were really familiar 3 with. It's not uncommon for the BIA to have larger 4 scale incidents or incidents that require lots of 5 people to come in, but something like this, we didn't 6 have the incident command structure really in place 7 like National Park Service. Now, that's changed to 8 some degree, but, you know, it's been a while since 9 I've been there. I'm not sure how robust it is.</p> <p>10 Q. Okay. So you -- what started this is 11 this e-mail from you to people I don't know on 12 October 14, because they're not identified. And you 13 were asking them is this briefing helpful to you. And 14 you got a response from Mr. Beaudreau. And he wrote 15 to you on the next day, on a Saturday, and he said, 16 "Darren and team, For me, the daily reports are 17 extremely useful and much appreciated. This situation 18 is front and center in everyone's mind, including the 19 Secretary's."</p> <p>20 Is he referring to the secretary of the 21 Department of Interior?</p> <p>22 A. I'm sure that's right.</p> <p>23 Q. So he's telling you that the DAPL protest 24 situation is front and center in the secretary of the 25 Department of Interior's mind?</p>	<p style="text-align: right;">Page 236</p> <p>1 effective work you and BIA law enforcement is doing on 2 the ground under trying circumstances."</p> <p>3 So a nice compliment for you and the OJS 4 from the secretary on down, it sounds like; right?</p> <p>5 A. Yes. Yes, that's how I took that.</p> <p>6 (Deposition Exhibit 791 was remotely 7 introduced and provided electronically to the court 8 reporter.)</p> <p>9 Q. Okay. Could we go to Exhibit 791, 10 please. This is an e-mail. There's a lot of 11 individual -- this is a string of a lot of e-mails, 12 like -- I don't know -- 30 e-mails with entries from a 13 Barry Cossey.</p> <p>14 A. Yes, Barry. Yeah, Barry was the -- I 15 mentioned earlier this morning about Sheriff 16 Kirchmeier and that team allowing us to put somebody 17 inside of their command structure there. Not command 18 structure, but their --</p> <p>19 Q. Law Enforcement Center?</p> <p>20 A. Yeah. On intel, gathering intel. And 21 that's what Barry was doing. He was part of that 22 group just scouring the Internet for, you know, 23 anything and everything.</p> <p>24 Q. By the way, he's the fellow that -- and 25 maybe I shouldn't have used the word "scolded" him,</p>
<p style="text-align: right;">Page 235</p> <p>1 A. Well, that and the fact that we had so 2 many resources pouring into there and that it was, you 3 know, impacting our greater mission, you know, our 4 first mission, which is providing public safety on 5 Standing Rock. So, you know, I would imagine that the 6 incident in its totality was front and center, but I 7 also took that to mean, you know, the fact that we had 8 so many resources there.</p> <p>9 And, you know, I always found the 10 secretary prior to that to be very pro law 11 enforcement, supportive of, you know, anything that we 12 were doing around. And so I took that to mean, you 13 know, front and center in everyone's mind, meaning our 14 well-being. You know, I could have been wrong on 15 that, but that's how I took it.</p> <p>16 Q. When you say that Secretary Jewell is 17 "pro law enforcement," you're only talking about 18 federal law enforcement; right?</p> <p>19 A. Well, that's the only context that I have 20 with her.</p> <p>21 Q. Sure. He goes on to say, "I appreciate 22 very much having current and accurate information." 23 There's a new paragraph. He says, "Finally, we've 24 said it before, but it should be emphasized, the 25 Secretary on down appreciates greatly the fantastic,</p>	<p style="text-align: right;">Page 237</p> <p>1 but you did respond to him and said, Hey, I use what 2 you give to me.</p> <p>3 A. Yeah.</p> <p>4 Q. Ended up at the secretary's office, so 5 let's be accurate.</p> <p>6 A. Yeah.</p> <p>7 Q. Just by point of reference. But I don't 8 want to talk about the huge chain of individual 9 reports, hourly type stuff he's giving you. I just 10 wanted to ask you about the very top line e-mail, 11 which is from you to Assistant Secretary of the 12 Interior Roberts, Mr. Humbert, and look, there's Tommy 13 Beaudreau, chief of staff to the secretary of the 14 Interior.</p> <p>15 So your Saturday update on Saturday, 16 October 15, 2016, is very short. So I'm going to read 17 it aloud and then ask you about it. "A lot of 18 activity today. The string of e-mails is attached but 19 to summarize; a hundred plus vehicles loaded with 20 people have left the camp. At least one report of a 21 person attaching them self to equipment, and arrests 22 are being made...same sort of stuff that has been 23 happening. The concern is always that single incident 24 of a protester going to far, or an over reaction from 25 an inexperienced officer could set things off. The</p>

<p style="text-align: right;">Page 238</p> <p>1 'call to action date' they set is the 17th, and they</p> <p>2 are asking for 30 days of this kind of 'Direct</p> <p>3 Action.' I am thinking it might be a good idea for me</p> <p>4 to return maybe Wednesday of this upcoming week."</p> <p>5 Return where? You're talking about you</p> <p>6 think it's a good idea to go back to North Dakota?</p> <p>7 A. Yes. I think probably this was one of</p> <p>8 the times when I was back home in Virginia, and I</p> <p>9 think that based on the totality of all of that that</p> <p>10 was happening, I thought, you know, senior leadership</p> <p>11 probably should be there --</p> <p>12 Q. Yes.</p> <p>13 A. -- on the ground, on the front there with</p> <p>14 them making these calls. It appears to me that based</p> <p>15 on this e-mail that tensions were getting high and</p> <p>16 that they had called for, you know, direct action,</p> <p>17 which I took to mean, you know, those sorts of overt</p> <p>18 strapping yourself to equipment and pushing the</p> <p>19 boundaries of just peaceful protests. That's what I</p> <p>20 took that all to mean. Thought I needed to probably</p> <p>21 get back there.</p> <p>22 Q. So this statement that you're making</p> <p>23 about "a hundred plus vehicles loaded with people have</p> <p>24 left the camp," are you referring to a camp on the</p> <p>25 Standing Rock Sioux Tribe Reservation?</p>	<p style="text-align: right;">Page 240</p> <p>1 as disruptive and problematic as they could. So maybe</p> <p>2 driving around was -- struck me as interesting,</p> <p>3 interesting tactic.</p> <p>4 Q. Yeah. So let me pose a question. I'm</p> <p>5 not being snide in saying it at all. So I don't want</p> <p>6 to sound that way, but here we are in October, middle</p> <p>7 of October, October 15, and there was an earlier</p> <p>8 e-mail where you gave a very detailed report to</p> <p>9 these -- basically these same people. And it's that</p> <p>10 e-mail where you said, You know, we don't want to do</p> <p>11 anything that looks like we're forcibly going to</p> <p>12 remove people because there's new camp leadership.</p> <p>13 And that was back in mid-September, so a couple months</p> <p>14 prior, two months, actually. No. A month. Excuse</p> <p>15 me. Do my math there. So one month prior here. So</p> <p>16 it's a month later after that you were expressing</p> <p>17 optimism about new camp leadership maybe having</p> <p>18 ability to be more -- get control over the camp;</p> <p>19 right?</p> <p>20 A. I think just being there on the ground</p> <p>21 observing what's going on was important to me at that</p> <p>22 time. I don't know that I had ever heard direct</p> <p>23 action -- the phrase "direct action" ever used</p> <p>24 anywhere before. And the fact that we heard, you</p> <p>25 know, "call to action" and "direct action" and certain</p>
<p style="text-align: right;">Page 239</p> <p>1 A. Well, I don't recall what camp I'm</p> <p>2 talking about. That would have come from somewhere.</p> <p>3 That information would have come to me from somewhere.</p> <p>4 So now, you know, I will tell you that I don't think</p> <p>5 there were 100 cars on the North Dakota -- I mean on</p> <p>6 the Standing Rock Sioux side. I don't think there</p> <p>7 could have been a hundred cars parked over there. So</p> <p>8 my best guess is that I'm talking about the larger</p> <p>9 camp, but without more context...</p> <p>10 Q. So this is the camp that's located on the</p> <p>11 Corps of Engineers land north of the Cannonball River?</p> <p>12 A. Yes, that's what I think.</p> <p>13 Q. Yes. Yes. And so this</p> <p>14 hundred-plus-vehicle reference, that's the caravan</p> <p>15 concept that you were talking about earlier; right?</p> <p>16 A. That's right. And they would often do</p> <p>17 that to go to do their protests wherever, and</p> <p>18 sometimes they would just drive in big squares, you</p> <p>19 know.</p> <p>20 Q. Yeah. Why would they do that, do you</p> <p>21 think?</p> <p>22 A. Well, I think it was just to harass and</p> <p>23 mix up law enforcement and not let, you know, us get</p> <p>24 kind of set on a pattern of what they were going to</p> <p>25 do. That's my thought. They were trying to just be</p>	<p style="text-align: right;">Page 241</p> <p>1 days they're going to be doing this kind of stuff,</p> <p>2 yeah, that was all concerning to me.</p> <p>3 Q. My point is that here we are a month</p> <p>4 later and you were -- and I believe it was in good</p> <p>5 faith -- you were hoping that, you know, this new</p> <p>6 leadership, Mr. Mekasi and his wife Faith Spotted</p> <p>7 Eagle, were going to be a new chapter in what you</p> <p>8 said, I think, earlier was the leadership du jour,</p> <p>9 constant change; is that right?</p> <p>10 A. Yeah. I don't think that's what I said,</p> <p>11 but that's what I meant.</p> <p>12 Q. I was using the "leadership du jour." I</p> <p>13 think you said something like from week to week, we</p> <p>14 didn't really know who was in charge of this camp.</p> <p>15 A. That's right. That's right. And I don't</p> <p>16 know if that guy was even still at the camp at this</p> <p>17 point. I'm not sure who was there --</p> <p>18 Q. But the --</p> <p>19 A. -- being the leader.</p> <p>20 Q. But the reality here is a month later</p> <p>21 Mr. Mekasi and Ms. Spotted Eagle really didn't turn</p> <p>22 out to be much different than the old?</p> <p>23 A. I think that's a fair statement, yeah.</p> <p>24 Q. Because you see caravans of a hundred</p> <p>25 plus people, which is a pretty big deal to organize</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 242</p> <p>1 100 vehicles packed with people. There's probably 2 more than 100 people, but here they're using the Corps 3 land to get organized and parade out of and here 4 they're not just going in a circle, they're attaching 5 themselves to equipment. I assume that's DAPL 6 construction equipment; right?</p> <p>7 MR. SCARPATO: Objection; assumes fact 8 not in evidence.</p> <p>9 A. Yeah. I don't recall exactly what 10 equipment it was, but I think that's right.</p> <p>11 Q. (BY MR. SEBY) It's out on the North 12 Dakota prairie?</p> <p>13 A. Yeah. I'm sure it was. I'm sure it was 14 their stuff.</p> <p>15 Q. Yeah. There's not much else out there to 16 attach to.</p> <p>17 A. Yeah. Right. Right.</p> <p>18 Q. Right. Okay. So here we've got the BIA 19 telling the chief of staff of the secretary of 20 Interior, We've got people using the Corps land to get 21 organized and go out, and I think you said not protest 22 peacefully; right?</p> <p>23 MR. SCARPATO: Objection; misstates the 24 evidence.</p> <p>25 A. Yeah. I think that's the word I used,</p>	<p style="text-align: right;">Page 244</p> <p>1 communicating with here. And it's the Saturday 2 evening report. You say in the subject line "use this 3 one from now on" and the text of your e-mail says, "I 4 changed the Department of Interior seal to ours," 5 "ours" being?</p> <p>6 A. I'm sure being the BIA OJS seal. I'm not 7 sure why I did that, honestly. Maybe because there 8 was no longer any DOI folks there and it doesn't make 9 any sense to me. I don't remember why I would have 10 done that.</p> <p>11 Q. What do you mean -- yeah.</p> <p>12 A. Well, I just mean DOI OLES personnel 13 there. I don't remember if there was still folks 14 there from the Office of Law Enforcement Security, 15 which are the seals that were on that other document 16 that you showed me, the other daily report document 17 you showed me. Short of possibly branding, you know, 18 and liking to see our own seal on stuff, that may have 19 been why.</p> <p>20 Q. I understand that. Why was the 21 Department of Interior Office of -- what's OELS stand 22 for?</p> <p>23 A. OLES, Office of Law Enforcement and 24 Security.</p> <p>25 Q. So why did those people leave?</p>
<p style="text-align: right;">Page 243</p> <p>1 yes.</p> <p>2 (Deposition Exhibit 792 was remotely 3 introduced and provided electronically to the court 4 reporter.)</p> <p>5 Q. (BY MR. SEBY) Okay. I thought so. So 6 it's accurate. If we could go to Exhibit 792, please. 7 So this is a short e-mail. It's dated October 15, 8 2016. You're sending it on to Mr. Darren Smith, who's 9 with the BIA. He's one of your -- one of your BIA law 10 enforcement OJS people?</p> <p>11 A. I don't recognize the name Darren Smith. 12 I don't know who that is. Doesn't even ring a bell to 13 me who Darren Smith is.</p> <p>14 Q. But this is your e-mail; right? It's got 15 your signature block.</p> <p>16 A. No. It's from me, but I don't remember, 17 you know, why we did that or -- Darren Smith might 18 have been -- gosh, I would say almost certainly not a 19 law enforcement individual. He may have worked at the 20 regional office, but with this e-mail saying, We've 21 changed the DOI seal to ours, I don't know why I would 22 send it to him. So I just don't -- I don't know who 23 he is. And I don't remember this e-mail.</p> <p>24 Q. Okay. So you're right. That's what your 25 e-mail says to Mr. Smith. He's the only one you were</p>	<p style="text-align: right;">Page 245</p> <p>1 A. I'm not saying that they did for sure. 2 I'm just sort of surmising why we would have changed 3 that. I don't remember. You know, after Adolph 4 Benavidez, Ben Benavidez, left, I don't remember if 5 anybody came in and backfilled that position. I do 6 remember that I brought an individual in, a fellow by 7 the name of Troy Mills, who was, I guess, a policy 8 adviser that we had hired from the Department of 9 Defense, incredibly smart individual. I brought him 10 there to assist me sort of in that same role that the 11 Department of Interior was. And they may have just 12 been okay with that because the reports were coming up 13 timely and they felt like they had good information 14 coming in. I don't know. Again, I'm speculating as 15 to why we would have changed the seal on there.</p> <p>16 Q. Okay. Let's go to the attachment, which 17 is the document. And I don't want to talk about the 18 contents at all. I just want to --</p> <p>19 A. I can tell you exactly. So we just took 20 the OLES seal off of there and left the Department of 21 Interior seal on there. So I made an assumption that 22 we just removed the seals off and put ours on there. 23 And I'm sure it was for branding purposes. I like our 24 seal and I like to see it. So I'm sure that I just 25 removed that and put that on there.</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 246</p> <p>1 Q. It is cool looking.</p> <p>2 A. Yeah. It's a good-looking seal. There's</p> <p>3 no question about it.</p> <p>4 Q. It really is, and so is the Department of</p> <p>5 Interior to the left there. So did anybody give you a</p> <p>6 hard time for doing that or did that just become the</p> <p>7 deal?</p> <p>8 A. I don't recall ever having another</p> <p>9 conversation about it. I don't remember anybody</p> <p>10 making a big deal about it.</p> <p>11 Q. Okay. Let's see.</p> <p>12 A. And, again, I just don't understand -- I</p> <p>13 feel confident that updates are highlighted in red.</p> <p>14 We would have updated anything, you know, but I</p> <p>15 clearly see that it's not.</p> <p>16 (Deposition Exhibit 795 was remotely</p> <p>17 introduced and provided electronically to the court</p> <p>18 reporter.)</p> <p>19 Q. Okay. Let's go to, Mr. Cruzan, 795.</p> <p>20 This is an e-mail -- good. It's only one e-mail. I</p> <p>21 associate Mr. Cossey with huge strings of e-mails.</p> <p>22 It's just a single one. It's dated October 22, which</p> <p>23 is a Saturday. And he's writing to you and copies</p> <p>24 some colleagues in the Department of Interior, Bureau</p> <p>25 of Indian Affairs. He says, "Update on today's</p>	<p style="text-align: right;">Page 248</p> <p>1 It was, you know, the big camp on the north side or</p> <p>2 the south camp on our side, is how I would typically</p> <p>3 refer to those.</p> <p>4 Q. Sure. So we're talking about the Corps</p> <p>5 of Engineers land, right, the camp on it?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. So it sounds as though Mr. Cossey</p> <p>8 is saying a combination of trespassing activity on</p> <p>9 private land, which is where the Dakota Access</p> <p>10 Pipeline was being constructed, and people going there</p> <p>11 very early in the morning, vandalizing equipment and</p> <p>12 attaching themselves to the equipment with these</p> <p>13 sleeping dragon-type devices, which is a locked arms</p> <p>14 kind of device. You know what I'm talking about;</p> <p>15 right?</p> <p>16 A. I do. I do. I'm familiar.</p> <p>17 Q. And so that and the combination of</p> <p>18 another -- yet another huge caravan of protesters</p> <p>19 loading up on Corps of Engineers property is out there</p> <p>20 and being used for this purpose and allowed to be</p> <p>21 used, and these people are departing that camp.</p> <p>22 They've departed.</p> <p>23 And those two circumstances, it looks as</p> <p>24 though Mr. Cossey is reporting that the State of North</p> <p>25 Dakota law enforcement rang the bell. They issued a</p>
<p style="text-align: right;">Page 247</p> <p>1 Protest Activity," October 22.</p> <p>2 And he says, At 0545 protest activity was</p> <p>3 identified at DAPL work site with individuals</p> <p>4 vandalizing equipment, four individuals using Sleeping</p> <p>5 Dragon devices to secure themselves to equipment and</p> <p>6 digging activity. Participants were arrested.</p> <p>7 Those arrests would have been by the</p> <p>8 State of North Dakota law enforcement; right?</p> <p>9 A. That's correct. Yeah.</p> <p>10 Q. "At 0700 approximately 100 vehicles</p> <p>11 departed the Seven Council Fires Camp." That's the</p> <p>12 one on Corps land; right?</p> <p>13 A. I believe that's right. Yes. Again, so</p> <p>14 that one really stands out to me because I think that</p> <p>15 was sort of in the center of that camp, Seven Councils</p> <p>16 Fire, but yes, that would have been in the big camp.</p> <p>17 Q. What do you mean "in the center of" the</p> <p>18 big camp?</p> <p>19 A. Well, I just recall that being one of the</p> <p>20 campsites in the big camp, the Seven Council Fire.</p> <p>21 And I always just in my mind -- it either was or I</p> <p>22 pictured that it was right in the middle of that big</p> <p>23 camp for whatever reason. So that's why I can say</p> <p>24 with certainty that that's in that camp. Again, I</p> <p>25 didn't often go by the smaller camp names and side.</p>	<p style="text-align: right;">Page 249</p> <p>1 code red. And the purpose of that was to recall all</p> <p>2 available officers to come to the event and position</p> <p>3 themselves between protesters and the DAPL work site</p> <p>4 that they were attacking. Did the BIA participate in</p> <p>5 this circumstance?</p> <p>6 A. No.</p> <p>7 MR. SCARPATO: Objection; misstates the</p> <p>8 evidence.</p> <p>9 Q. (BY MR. SEBY) No, they did not?</p> <p>10 A. As far as a response to something like</p> <p>11 this? No. You know, so Barry is BIA. So he's</p> <p>12 letting me know about it, but as far as a code red and</p> <p>13 a response to it to a certain area, that wouldn't have</p> <p>14 been something that a BIA officer participated in.</p> <p>15 Q. Sure. So he's talking more about that</p> <p>16 event and the people that were enjoying the freedom of</p> <p>17 the Corps of Engineers property to get ready to do</p> <p>18 this kind of stuff over and over. And he's talking</p> <p>19 about how they're just confrontational with law</p> <p>20 enforcement, trying to protect public order here. And</p> <p>21 at the end of his e-mail he says, BIA involvement</p> <p>22 consisted of supporting Morton County's closure of</p> <p>23 Highway 1806 in the south due to protesting</p> <p>24 activities.</p> <p>25 A. Yeah. Right. So I think on a couple of</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 250</p> <p>1 occasions -- and, you know, as we got closer to the 2 end, there was a desire to not allow more building 3 material to come into the big camp, you know, through 4 the reservation on county highways. It was -- there 5 were a couple of occasions that I remember being 6 requested by Morton County, Hey, can you -- on the 7 reservation side can you close down that road and not 8 allow anybody to come in behind. And we would do 9 that. We would do that, but always, you know, like I 10 said, from within the boundaries of the reservation, 11 not outside the reservation. But we would assist.</p> <p>12 Q. Sure. So where the BIA involvement, 13 though -- that was supporting the county's closure of 14 the state highway. This was one of those instances 15 where the BIA felt it could, in its discretion, help 16 out?</p> <p>17 A. Well, yeah. I mean, I don't think there 18 was ever any question, I hope, not on anybody's mind 19 that we were a cooperative law enforcement partner, 20 you know, with an end goal of getting folks to go 21 peacefully and leave.</p> <p>22 So, you know, it was never that I'm aware 23 of -- they may feel differently. You know, Sheriff 24 Kirchmeier might feel differently. But we tried to do 25 our very best within our authorities to assist, you</p>	<p style="text-align: right;">Page 252</p> <p>1 an opportunity to speak with him one on one. We 2 briefly discussed the FBI's limited role in the DAPL 3 issue and generally our plans moving forward. It was 4 a positive discussion and he did not appear to have 5 specific expectations of the FBI. He did ask about 6 our ability to gather information from potential 7 sources in the camp and I explained our limitations, 8 but assured him we would continue to assist local law 9 enforcement to the extent possible.</p> <p>10 Additionally, he asked about our role 11 with tribal entities and -- in North Dakota and he 12 wished to improve state/tribal relationships. He 13 asked if we'd be willing to give him and his staff a 14 general FBI and Indian country briefing at some future 15 date. I relayed we would be willing to do so.</p> <p>16 So that e-mail was then forwarded to you 17 from Mr. Perry who -- he's in the FBI branch office of 18 the Federal Bureau of Investigation. And he says 19 "Director Cruzan," refers to you as "Director Cruzan." 20 See below. I don't know if you or someone else wants 21 to arrange to be part of any future meeting with the 22 new North Dakota governor. He seemed generally 23 interested in becoming more attuned to tribal 24 relationships and improving them. Then you say to 25 him, "Can you give me a call."</p>
<p style="text-align: right;">Page 251</p> <p>1 know, when things like this were happening. So, you 2 know, if they were concerned about their flank or 3 their backs or whatever and thought that closing a 4 road for a certain amount of time was the right thing 5 to do, we would do that.</p> <p>6 Now, I do remember many times that 7 highway patrol would be over there with us. You know, 8 not a large contingency, but it was not an infrequent 9 thing to see the highway patrol on the county road on 10 the reservation, you know, at what we would call 11 "checkpoints."</p> <p>12 (Deposition Exhibit 797 was remotely 13 introduced and provided electronically to the court 14 reporter.)</p> <p>15 Q. Okay. But let's go to Exhibit 797, 16 please. Let's see here. This is a three-part e-mail. 17 Would you -- Mr. Cruzan, would you please read from 18 the bottom up. It's an e-mail to you from Robert 19 Perry with the Federal Bureau of Investigation, 20 addressed to a group of other FBI people. All of them 21 are. You're not copied on that e-mail, but he says 22 that -- this e-mail date is December 16, 2016.</p> <p>23 And he says, Yesterday morning the newly 24 installed North Dakota Governor, Doug Burgum, attended 25 the morning DAPL briefing. After the briefing I had</p>	<p style="text-align: right;">Page 253</p> <p>1 Do you recall this interaction with 2 Mr. Perry?</p> <p>3 A. Yeah. I don't remember the exact back 4 and forth on this e-mail. I definitely do remember 5 having a conversation about the governor's desire to 6 understand Indian country and to have a conversation 7 with me. I'm assuming that it was -- this was the 8 genesis of that, you know, being put into the works.</p> <p>9 Q. So what happened after you talked to him?</p> <p>10 A. Well, I did get the opportunity to meet 11 with the governor in his office. I don't recall who 12 was all in there. I think the -- I don't remember who 13 from my office was there.</p> <p>14 Q. Which governor are you talking about?</p> <p>15 A. Well, okay. That's a good question. So 16 I do know that there were two governors there. This 17 is the one that was -- I think it's Burgum, I think.</p> <p>18 Q. It says that.</p> <p>19 A. Yeah. The newly installed. Yeah. So I 20 think it was Governor Burgum and --</p> <p>21 Q. So you had already met with the governor. 22 Well, how could you have met with Governor Burgum 23 before this, because Governor Burgum took office on 24 December 15 and --</p> <p>25 A. Yeah. I don't think it was before this.</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 254</p> <p>1 I don't think I ever met with Governor Burgum before 2 this. I definitely met with the governor in his 3 office. And, you know, I hope I don't have the 4 governor wrong. He's -- the governor has an IT 5 background.</p> <p>6 Q. Yeah. Yes, that's --</p> <p>7 A. Yeah.</p> <p>8 Q. I believe that to be correct. You're 9 right. There were two governors and --</p> <p>10 A. Yeah. I only --</p> <p>11 Q. Let me get this out. The first governor 12 was Jack Dalrymple when the protests began, and his 13 term -- his second term, so he was term limited, ended 14 on December -- morning of December 15 and Governor 15 Burgum took office and was sworn in that afternoon. 16 And Mr. Perry's e-mail says he met with him the same 17 day he was installed as governor. So I didn't think 18 you were telling me you met with Governor Burgum.</p> <p>19 A. No. I didn't meet with him that day, no, 20 sir. I did meet with him sometime later, the 21 governor.</p> <p>22 Q. Was that because of Mr. Perry's message 23 in reference to that?</p> <p>24 A. I think maybe it was. I also know -- and 25 I can't remember his name. I'm embarrassed that I</p>	<p style="text-align: right;">Page 256</p> <p>1 very, very friendly and good conversation. I remember 2 him asking me about Indian country. I do think that I 3 gave him sort of a thumbnail sketch of Indian country 4 jurisdiction and where ours -- our authority started 5 and stopped, sort of a background on Indian affairs 6 and staffing abilities.</p> <p>7 And I know the meeting ended very well.</p> <p>8 In fact, so well that he invited me -- he was doing a 9 town hall meeting somewhere, not down here at the 10 protest area, but it was a farming community kind of 11 off the beaten path. I don't remember the name of the 12 town. I think it was that night. I think it was that 13 night or maybe the next night. He said, Hey, if 14 you're interested and want to come, you know, you're 15 welcome to come and sit in. So I got there and I sat 16 in the back, and I listened to him speak and I left.</p> <p>17 Q. Yeah. Okay. Mr. Cruzan, I am wrapping 18 up. So I want to just ask you, unless you've 19 indicated otherwise throughout your deposition today, 20 have you understood my questions?</p> <p>21 A. I think, and those that I didn't 22 understand, I think we got to the point where I was 23 able to understand your questions, I think.</p> <p>24 Q. Okay. Is there anything further that 25 you'd like to add to your testimony?</p>
<p style="text-align: right;">Page 255</p> <p>1 can't remember his name. But he was the Native 2 American coordinator for the governor. He and I had 3 met. I'm sorry?</p> <p>4 Q. You're talking about Scott Davis?</p> <p>5 A. Scott Davis. Scott Davis, yes. Very 6 nice young man. We had conversations. I don't 7 believe we knew each other prior to that, but I think 8 we hit it off well. And so it may have been a 9 combination between this FBI and Scott, but...</p> <p>10 Q. You mind if I tell Mr. Davis that you 11 referred to him as "young man"? I think he'd 12 appreciate that.</p> <p>13 A. Yeah. You know, I mean, he's got an -- 14 absolutely. Absolutely.</p> <p>15 Q. All right. He's a good guy.</p> <p>16 A. He's very, very nice, very nice man. I 17 like him a lot. But at some point we -- I say "we." 18 I did, and I think it was Adolph Benavidez was with 19 me, as I recall, because I remember making some 20 comment to him about something. We were walking 21 around in the capitol building. I can't remember what 22 it was about. I'm almost positive it was Adolph 23 Benavidez, myself, I think Scott was there.</p> <p>24 And I don't remember. It wasn't a whole 25 lot of people. I remember meeting with the governor,</p>	<p style="text-align: right;">Page 257</p> <p>1 A. No, sir, I don't think so.</p> <p>2 MR. SEBY: Okay. Thank you, sir. I have 3 no further questions and, as the parlance is, I'll 4 pass the witness to counsel for the United States.</p> <p>5 MR. SCARPATO: Good afternoon. I 6 actually don't have any questions. There's just one 7 thing that I'd like to note for the record while I 8 have the floor. Mr. Seby, you mentioned or discussed 9 a document with Mr. Cruzan earlier today where there 10 was a redaction and you were questioning why that 11 redaction existed.</p> <p>12 I just wanted to note for the record that 13 the Court has had before it a version of that e-mail 14 chain. It's at USACE 00004486, and she ruled on that 15 redaction and ruled that it should stay in place. So 16 I just wanted to put that on the record. Otherwise, I 17 have nothing further. Thank you very much.</p> <p>18 MR. SEBY: Bill, would you be willing to 19 provide me with a copy of the version that you're 20 referencing, please?</p> <p>21 MR. SCARPATO: Yeah. It's at that Bates 22 number. If you'd like the ECF cite for the Court's 23 discussion, that's ECF 247, page 23. And, again, the 24 Bates label is USACE 00004486.</p> <p>25 MR. SEBY: Thank you.</p>

Darren Cruzan
August 23, 2022

<p style="text-align: right;">Page 258</p> <p>1 MR. SCARPATO: You bet.</p> <p>2 MR. SEBY: Nothing further from me,</p> <p>3 Mr. Cruzan. Thank you for your time.</p> <p>4 THE DEPONENT: You're very welcome.</p> <p>5 Thank you.</p> <p>6 MR. SEBY: Very well.</p> <p>7 THE VIDEOGRAPHER: We are off the record</p> <p>8 at 4:20 p.m.</p> <p>9 WHEREUPON, the within proceedings were</p> <p>10 concluded at the approximate hour of 4:20 p.m. on the</p> <p>11 23rd day of August, 2022.</p> <p>12 * * * * *</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 260</p> <p>1 REPORTER'S CERTIFICATE</p> <p>2 STATE OF COLORADO)</p> <p>3) ss.</p> <p>4 COUNTY OF ARAPAHOE)</p> <p>5 I, TIFFANY D. GOULDING, Registered</p> <p>6 Professional Reporter and Notary Public ID No.</p> <p>7 19984028637, State of Colorado, do hereby certify that</p> <p>8 previous to the commencement of the examination, the</p> <p>9 said DARREN CRUZAN verbally declared his testimony is</p> <p>10 under the penalty of perjury in relation to the</p> <p>11 matters in controversy between the parties hereto;</p> <p>12 that the said deposition was taken in machine</p> <p>13 shorthand by me at the time and place aforesaid and</p> <p>14 was thereafter reduced to typewritten form; that the</p> <p>15 foregoing is a true transcript of the questions asked,</p> <p>16 testimony given, and proceedings had.</p> <p>17</p> <p>18 I further certify that I am not employed</p> <p>19 by, related to, nor of counsel for any of the parties</p> <p>20 herein, nor otherwise interested in the outcome of</p> <p>21 this litigation.</p> <p>22 IN WITNESS WHEREOF, I have affixed my</p> <p>23 signature this 12th day of September, 2022.</p> <p>24</p> <p>25 My commission expires November 4, 2022.</p> <p>26 x Reading and Signing was requested.</p> <p>27 Reading and Signing was waived.</p> <p>28 Reading and Signing is not required.</p> <p>29</p> <p>30</p> <p>31</p> <p>32</p> <p>33</p> <p>34</p> <p>35</p> <p style="text-align: right;">Tiffany Goulding Registered Professional Reporter</p>
<p style="text-align: right;">Page 259</p> <p>1 I, DARREN CRUZAN, do hereby certify that</p> <p>2 I have read the above and foregoing deposition and</p> <p>3 that the same is a true and accurate transcription of</p> <p>4 my testimony, except for attached amendments, if any.</p> <p>5</p> <p>6 Amendments attached () Yes () No</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p>State of North Dakota 8/23/22 (tdg)</p>	<p style="text-align: right;">Page 261</p> <p>1 Errata Sheet</p> <p>2</p> <p>3 NAME OF CASE: Plaintiff vs UNITED STATES</p> <p>4 DATE OF DEPOSITION: 08/23/2022</p> <p>5 NAME OF WITNESS: Darren Cruzan</p> <p>6 Reason Codes:</p> <p>7 1. To clarify the record.</p> <p>8 2. To conform to the facts.</p> <p>9 3. To correct transcription errors.</p> <p>10 Page Line Reason</p> <p>11 From to</p> <p>12 Page Line Reason</p> <p>13 From to</p> <p>14 Page Line Reason</p> <p>15 From to</p> <p>16 Page Line Reason</p> <p>17 From to</p> <p>18 Page Line Reason</p> <p>19 From to</p> <p>20 Page Line Reason</p> <p>21 From to</p> <p>22 Page Line Reason</p> <p>23 From to</p> <p>24</p> <p>25</p>